

The Department of Environmental Quality: Timeliness and Funding of Air Quality Permitting Programs

June 2002

Office of Performance Evaluations
Idaho State Legislature



Report 02-01

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June 12, 2002

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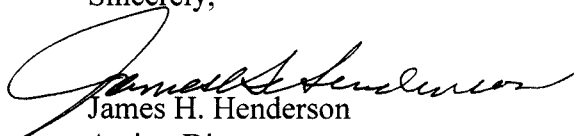
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At the direction of the Joint Legislative Oversight Committee, we have conducted an evaluation of the Department of Environmental Quality's Air Quality Permitting Program. Interest in this evaluation centered on whether the department has issued operating permits timely and whether permit fee revenues have been used appropriately. I respectfully submit our completed evaluation report for your review and consideration.

Throughout the evaluation, we received the full cooperation of the Department of Environmental Quality and its staff. This report was written and researched by Ned Parrish (lead), Jim Henderson, Chris Shoop, Paul Headlee, and Lou Sternberg, Ph.D. (contractor), with the assistance of other Office of Performance Evaluations staff.

Sincerely,


James H. Henderson
Acting Director

JHH/mc

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Timeliness and Funding of Air Quality Permitting Programs

Executive Summary

In February 2002, the Joint Legislative Oversight Committee requested an evaluation of air quality permitting programs at the Department of Environmental Quality. The Committee asked for this evaluation partly in response to concerns about the department's timeliness in issuing permits. These concerns centered on two types of permits—comprehensive permits (called “Title V” permits) for ongoing operations at large sources of pollution, and construction permits (called “Permits to Construct”) required before building or modifying facilities that may be sources of pollution. The Committee's request was also prompted by concerns about the department's use of Title V fee revenues and the adequacy of funding for this federally mandated permitting program.

Concerns were raised about two air quality permitting programs: Title V and Permits to Construct.

To address these concerns, we asked the following questions:

- **Title V permits:** Has the department processed Title V permits in a timely manner? More specifically, how has Idaho's performance compared with federal guidelines or the performance of other states? Are there opportunities to improve the process?
- **Title V funding:** Does the department receive adequate fees from applicants and permit holders to pay the costs of the Title V program? More specifically, how have Idaho's fees compared to federal recommendations and to fees charged in other states?
- **Title V fee accounting:** Have all funds collected for Title V been used in accordance with federal requirements? Has the department established accounting systems and practices to adequately track Title V revenues and expenditures?
- **Permits to Construct:** Has the department issued these permits in a timely manner? What steps has the department taken steps to resolve the backlog of permit applications that began to develop in fiscal year 2001? Is there sufficient funding for this permitting program?

To answer these questions, we reviewed applicable statutes and regulations, examined information from the department's data collection and tracking systems, and reviewed department files for a sample of facilities required to obtain Title V permits. We also reviewed budget information, and revenue and expenditure data, concerning the Title V program. We interviewed department staff, U.S. Environmental Protection Agency personnel, and representatives of the regulated community. We gathered information about Title V permitting programs in Idaho's six neighboring states, and about Title V permit issuance nationwide.

Timeliness of Title V Permit Issuance

The Department of Environmental Quality is charged with issuing comprehensive operating permits (called "Title V" permits after the section of the 1990 amendments to the federal Clean Air Act establishing them) to industrial facilities, government installations, and other operations that discharge, or have the potential to discharge, substantial amounts of air pollutants.

The department has missed federally established deadlines and lagged behind other states in issuing Title V permits.

We found that the department has been slow to issue these permits, missing federally established deadlines and trailing behind issuance rates of most other states. While the Clean Air Act required states to issue the initial group of permits within 3 years of program approval, the department did not issue its *first* Title V permit until December 2000—nearly four years after receiving EPA approval for its program. In addition, as of April 2002, the department had issued Title V permits to just 17 (31 percent) of the 54 facilities from the initial applicant pool still identified as needing one. In contrast, the Environmental Protection Agency reports that nationwide, 70 percent of facilities identified as needing a Title V permit have received one. Further, Idaho's neighboring states all have higher permit issuance rates.

A number of factors have contributed to the department's slow performance in issuing Title V permits. First, Idaho didn't receive approval to issue Title V permits until a year or more after all of its neighboring states. Second, program negotiations with industry, which were designed to last about three months, carried on for over 18 months, and even then did not achieve the desired results. Next, the department's delayed processing of permit applications caused the need to request updates to applications from facilities that had submitted them years before.

Additionally, efforts by staff in processing permits were wasted, as completed steps in the Title V permit process were often not used in creating a permit for issuance, and many steps were later repeated. Finally, the department was hindered by the absence of other construction and operating permits (which provides the foundation for Title V permits) at many facilities that had applied for a Title V permit, creating additional work for staff to complete before issuing the Title V permit.

Despite these past performance problems, the department has recently taken steps to improve permit issuance. The department's current management team has established budgets and timelines for each permit project and since December 2000, has issued permits to 17 of the facilities in the initial population. Further, in October 2001, the department committed to issue all the remaining Title V permits (currently 37) by the end of calendar year 2002. This commitment prompted a change in the way the department is processing the permits, as it is now addressing any outstanding issues, such as the lack of foundation permits, by including compliance plans in the Title V permits that require facilities to resolve the issues within a later specified time. While this commitment is ambitious, requiring the department to issue over twice as many permits in 2002 than it has in all the previous years of the program combined, the department appears to be on schedule to meet this goal at the present time.

However, while this progress is encouraging, the department needs to address its incomplete and inconsistent management data and lack of standardized guidance available to the staff that writes the Title V permits.

Adequacy of Title V Program Funding

Federal statutes and regulations require that the Title V operating permit program be funded entirely by fees collected from facilities requiring permits. Overall we conclude that current program funding will be inadequate to sustain the program at current spending levels. We found that fee revenues have declined for several reasons, including a reduction in the number of facilities subject to fees, the removal of a pollutant from fee calculations, basing fee calculations on actual rather than potential emissions, and adoption of a revised fee schedule that included fee caps. Annual fee revenues declined by about \$1.1 million between fiscal years 1994 and 2001.

Many factors, including lengthy program development and inefficient application processing, have contributed to delays in issuing permits.

The department has recently taken steps to improve the Title V program and has committed to issuing remaining permits by December 2002.

Annual Title V fee revenues declined by about \$1 million between FY1995 and FY2001.

Program expenditures have exceeded revenues since FY1998, resulting in a declining fund balance.

We also found that revenues may decline further in 2002 because the U.S. Department of Energy has notified the department it plans to pay lower emissions-based fees for the Idaho National Engineering and Environment Laboratory (like other facilities) rather than negotiate fee payments with the department, as it has in years past. As a result, fee payments for this facility could decline from \$350,000 to \$550,000 annually to an estimated \$39,000, based on actual facility emission in 2000.

Additionally, we found that Title V expenditures have increased, and since fiscal year 1998 expenditures have exceeded revenues. As a result, the Air Quality Permitting Fund balance has declined from about \$3.9 million at the end of fiscal year 1997 to about \$2.4 million at the end of fiscal year 2001. If revenues and program expenditures continue at present levels, the balance will decline to about \$1 million by the end of fiscal year 2003.

We conclude that the current level of Title V funding falls below federal guidelines and Idaho's facilities would pay more under most neighboring states' fee schedules. We recommend the department take steps to correct the current imbalance between revenues and expenditures, and consider alternative approaches to assessing fees on Title V facilities.

Accounting of Title V Permit Fee Revenues and Expenditures

Federal statutes and regulations require that Title V fee revenues and expenditures be segregated from other funds to ensure they are not used for improper purposes. Overall, we conclude that the department has appropriately segregated and accounted for Title V fees, but before fiscal year 2001 records did not maintain information about specific Title V activities being performed.

Fee revenues have been appropriately segregated from other funds, but prior to FY2001 little detail is available on program expenditures.

We found that fee receipts were segregated in a separate fund, but that due to incomplete information in the air fees tracking database the department could not assure that all fees owed were collected. We recommend that the department improve its Title V fee tracking system.

We also found that before 2001, the department's accounting system appropriately segregated Title V expenditures, but lacked sufficient detail to identify the specific activities being funded. The department's current accounting system, established in fiscal year 2001, provides greater detail about the use of Title V funds,

identifying the specific employees charging time to the program and the activities being performed.

However, we found that transfers out of the permitting fund did not match actual expenditures, resulting in lost interest income on Title V funds. We recommend that the department reconcile future transfers with actual expenditures. We also noted that the department has been inconsistent in applying the agency-wide indirect cost rate to its Title V program. We recommend the department apply its indirect cost rate to Title V fund consistently with its other programs so that the Title V program is not, in effect, subsidized by other programs.

We also addressed specific questions regarding the use of Title V funding for Permits to Construct and Tier 2 permits relating to Title V facilities. While federal agency guidance is somewhat vague, we conclude that the use of Title V funding to cover the cost of these permits appears to be allowable. However, we also note that since receiving conflicting guidance in 2001, the department has not used Title V fees for Permits to Construct, and the department has established separate fees for Permits to Construct and Tier 2 permits to help cover the cost of processing these permits.

Permit to Construct Timeliness and Program Funding

The department also issues construction permits to facilities that discharge air pollutants. These permits (called “Permits to Construct”) must be obtained before facilities that emit air pollutants can be built or significant modifications made.

We found the department has taken steps to reduce the backlog of construction permit applications that existed at the beginning of fiscal year 2002. The department has used a one-time \$310,000 appropriation to hire a consultant to assist with permit processing. Since the contractor was brought on board in August 2001, the number of backlogged permit applications has declined from 41 to 8. In addition, the length of time applications have spent in backlog has declined. However, from fiscal years 1999 through 2002, the department frequently exceeded required timeframes for permit processing specified in the Idaho Administrative Code. We found that 40 percent of cases for which information was available exceeded the 30-day timeline for determining whether applications were complete or incomplete, and 45 percent

Department use of lump sum transfers of fee revenues to its operating account has resulted in lost interest income.

The department has reduced the backlog of construction permits, but frequently exceeded required timeframes.

exceeded the 60-day timeline for issuing a draft permit or notifying the applicant of approval or denial once applications were complete. While the department's timeliness in processing permit applications improved somewhat in fiscal year 2002, we recommend that the department take steps to better ensure that all future construction permit applications are processed within required timeframes.

The department needs to monitor collections from recently established fees to ensure fee levels are appropriate.

The department recently established application and processing fees to provide additional funding for the construction permit program. Fee revenues are intended to supplement existing state and federal grant funding, and to help minimize future backlogs and delays in permit issuance. These new fees, which go into effect in July 2002, include a \$1,000 application fee plus an emissions-based fee of up to \$10,000. Because fee revenues are dependent on the number of applications received and facility emissions, it is difficult to determine how much revenue the fee will generate. However, based on previous application submissions, the department could generate revenues from less than \$150,000 to over \$200,000 annually from application fees alone. To ensure the fees are set at an appropriate level (neither too low nor too high), we recommend the Department of Environmental Quality monitor fee collections to determine whether any adjustments in fee levels are needed.

Summary of Report Findings and Recommendations

1. The Department of Environmental Quality has been slow in issuing Title V permits, missing federally established deadlines and trailing behind issuance rates of most other states. *Page 8.*
2. The Department of Environmental Quality's lengthy program development activities delayed issuance of Idaho's Title V permits. *Page 10.*
3. The Department of Environmental Quality's requests for application updates contributed to delays in Title V permit issuance. *Page 11.*
4. The Department of Environmental Quality has not efficiently used the Title V efforts of its staff. *Page 12.*
5. The Department of Environmental Quality's progress in issuing Title V permits was slowed by the lack of other necessary permits at some facilities. *Page 13.*
6. The Department of Environmental Quality's recent improvements to the Title V permitting process have led to faster issuance of permits. *Page 14.*
7. The Department of Environmental Quality has kept incomplete and inconsistent management data for tracking progress towards issuing Title V permits. *Page 16.*
 - **We recommend the Department of Environmental Quality take steps to improve tracking information for Title V permitting projects.** *Page 18.*
8. The Department of Environmental Quality has not established Title V permitting guidance for its permit writers. *Page 18.*
 - **We recommend the Department of Environmental Quality develop written guidance that establishes standard procedures for permitting staff to follow when developing permits.** *Page 19.*
9. Funds available to support the Title V program are declining and could be insufficient to meet program obligations before the end of fiscal year 2003 if current revenue and expenditure patterns continue. *Page 22.*
10. Title V fee revenues have declined nearly every year since 1994. *Page 22.*

11. Annual Title V expenditures have generally increased, and since fiscal year 1998 Title V expenditures have exceeded revenues. *Page 26.*
12. Idaho's current fee structure, established in 2001, provides a level of funding that falls below federal guidelines. *Page 28.*
13. Idaho's Title V facilities would pay more under most neighboring states' fee schedules. *Page 29.*
 - **We recommend the Department of Environmental Quality address the current imbalance between Title V program revenues and expenditures, and consider alternative factors, in addition to emissions, as a basis for Title V fees.** *Page 32.*
14. Title V permit fee receipts have been appropriately segregated from other funds. *Page 35.*
15. The Department of Environmental Quality's internal fees tracking data does not provide assurance that all required fees have been paid. *Page 35.*
 - **We recommend the Department of Environmental Quality improve its fee tracking database.** *Page 36.*
16. Before 2001, the Department of Environmental Quality's accounting system appropriately segregated Title V expenditures from other expenditures, but lacked sufficient detail to identify specific activities for which fee revenues were used. *Page 37.*
17. Transfers out of the Air Quality Permitting Fund did not match actual expenditures resulting in lost interest income on Title V funds. *Page 37.*
 - **We recommend the Department of Environmental Quality reconcile future transfers to actual expenditures.** *Page 38.*
18. The Department of Environmental Quality has established accounting systems and practices to demonstrate that fee revenues spent during fiscal years 2001 and 2002 have been used for Title V program activities, but additional improvements are needed. *Page 39.*
19. Indirect costs paid from Title V fees have not been consistently calculated. *Page 39.*
 - **We recommend the Department of Environmental Quality apply its indirect cost rate to Title V funds consistently with its other programs.** *Page 41.*
20. Although federal agency guidance regarding use of Title V fee revenues is somewhat vague, it appears that the Department of Environmental Quality's use of Title V fee funds for issuing Permits to Construct and Tier 2 permits to Title V facilities is allowable. *Page 41.*
21. The Department of Environmental Quality has taken steps to reduce the construction permit application backlog, although a small backlog continues to exist. *Page 43.*

22. Although the Department of Environmental Quality's timeliness in processing permits has improved slightly in fiscal year 2002, it frequently exceeded required deadlines for permit processing in fiscal years 1999 through 2002. *Page 44.*
- **We recommend the Department of Environmental Quality continue efforts to reduce the permit to construct application backlog and take measures to improve adherence to deadlines established in Idaho Administrative Code.** *Page 46.*
23. The Department of Environmental Quality's tracking data for construction permit applications was somewhat incomplete, providing management with insufficient information to determine if deadlines set in Idaho Administrative Code were met. *Page 46.*
- **We recommend the Department of Environmental Quality take steps to ensure the Permit to Construct data is complete and accurate.** *Page 46.*
24. The Department of Environmental Quality has implemented new application and processing fees to allow it to keep pace with its construction permit workload, but will need to monitor the appropriateness of fee levels. *Page 46.*
- **We recommend the Department of Environmental Quality monitor fee collections and workload to determine if the fee schedule should be adjusted either up or down.** *Page 47.*

Introduction

Chapter 1

In February 2002, the Joint Legislative Oversight Committee requested an evaluation of air quality permitting programs at the Department of Environmental Quality. The Committee asked for this evaluation partly in response to concerns about the department's timeliness in issuing permits. These concerns centered on two types of permits—comprehensive permits (called “Title V” permits) for ongoing operations at large sources of pollution, and construction permits (called “Permits to Construct”) required before building or modifying facilities that may be sources of pollution. The Committee's request was also prompted by concerns about the department's use of Title V fee revenues and the adequacy of current department funding for this federally mandated permitting program.

We reviewed the department's issuance of air quality permits and funding for these permitting programs.

To address these concerns, we asked the following questions:

- **Title V permits:** Has the department processed Title V permits in a timely manner? More specifically, how has Idaho's performance compared with federal guidelines or the performance of other states? Are there opportunities to improve the process?
- **Title V funding:** Does the department receive adequate fees from applicants and permit holders to pay the costs of the Title V program? More specifically, how have Idaho's fees compared to federal recommendations and to fees charged in other states?
- **Title V fee accounting:** Have all funds collected for Title V been used in accordance with federal requirements? Has the department established accounting systems and practices to adequately track Title V revenues and expenditures?
- **Permits to Construct:** Has the department issued these permits in a timely manner? What steps has the department taken to resolve the backlog of permit applications that began to develop in fiscal year 2001? Is there sufficient funding for this permitting program?

To answer these questions, we:

- Reviewed state and federal statutes and regulations, as well as guidance documents issued by the U.S. Environmental Protection Agency, concerning the Title V and Permit to Construct programs;
- Examined available information from the department's data collection and tracking systems;
- Reviewed department files for 16 facilities subject to Idaho's Title V process;
- Reviewed budget documents, as well as revenue and expenditure data from the Statewide Accounting and Reporting System (STARS) and the department's internal accounting systems;
- Interviewed department staff, Environmental Protection Agency personnel, and representatives of the regulated community; and
- Gathered information about Title V permitting programs in Idaho's six neighboring states, and about Title V permit issuance nationwide.

The department is responsible for issuing both operating and construction permits to facilities emitting air pollutants.

Background

The Department of Environmental Quality is the agency charged with administering the federal Clean Air Act in Idaho. As part of its responsibilities in this area, the department issues operating and construction permits to facilities that discharge pollutants. Permits establish limits on the types and amounts of air pollution allowed, spell out operating requirements for pollution control devices or pollution prevention activities, and specify monitoring and record keeping requirements. Two of the specific types of permits are Title V permits and Permits to Construct.¹

¹ The department also issues state operating permits (called "Tier 2" permits) to some facilities that discharge air pollutants.

The Title V Permit Program

Title V permits, named after the section of the Clean Air Act establishing them, are comprehensive operating permits required for industrial facilities, government installations, and other operations that emit, or have the potential to emit, substantial amounts of air pollutants. Established by Clean Air Act Amendments in 1990, these permits are designed to “streamline the way federal, state, tribal, and local authorities regulate air pollution by consolidating all air pollution requirements into a single, comprehensive ‘operating permit’ that covers all of a source’s year-to-year air pollution activities.”²

Historically, large facilities often have been required to obtain multiple construction and/or operating air quality permits. For example, the Idaho National Engineering and Environmental Laboratory has been issued a total of 55 construction permits, and a sawmill in northern Idaho has been issued two construction permits and four operating permits. Title V permits were designed to pull together requirements in these permits to make it easier for facilities to understand and comply with the various requirements that apply to them and, as a result, improve air quality. These permits were not intended to set new emissions and control requirements on facilities, but were to include standardized monitoring and record-keeping requirements to facilitate compliance and enforcement efforts.

Facilities must obtain a Title V permit if their emissions exceed certain levels specified in the Clean Air Act.³ Facilities with the ability to emit at Title V levels, but which agree to keep emissions below these levels can opt out of the Title V program by obtaining a “synthetic minor” permit. This is a desirable alternative for facilities because they avoid Title V fees and are subject to less extensive inspection and reporting requirements. Title V facilities are required to pay annual registration and emissions-based fees, are subject to more frequent inspections,

The department issues comprehensive operating permits, called “Title V” permits, to large pollution sources.

Title V permits are not intended to set new requirements, but to pull together requirements from other permits.

² United States Environmental Protection Agency, *Air Pollution Operating Permit Program Update: Key Features and Benefits* (Feb. 1998), 1.

³ Permits are required for facilities that emit or have the potential to emit 100 tons or more per year of certain regulated pollutants including particulate matter (PM-10), carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic compounds (VOCs). Facilities that emit 10 tons or more per year of any hazardous air pollutant, or 25 tons per year of any combination of hazardous air pollutants, are also required to obtain a permit. Hazardous air pollutants include more than 170 chemical substances, various chemical compounds, and radionuclides.

The department received Title V permit applications from existing facilities in 1995 and 1996.

The permitting process includes application review, preparation of a draft permit, and opportunities for comment by the facility representatives and others.

must submit emissions reports at least semiannually, and are required to certify their compliance annually.

The process for obtaining a Title V permit includes the following key steps:

- *Application submittal.* In Idaho, facilities already in operation when the state's Title V rules went into effect in 1994 were required to submit permit applications in 1995 and 1996. New facilities have been required to submit a permit application within one year of commencing operations.
- *Completeness determination.* Department staff are required to review Title V permit applications and determine whether the information submitted is complete within 60 calendar days. Incomplete applications are returned to applicants for modification and resubmittal.
- *Draft permit development.* Once an application has been found to be complete, department staff are responsible for preparing a draft permit. Time requirements for draft preparation are not specified in statute or rule. However, permits must be issued in specified timeframes and rules specify that draft permits or denials be prepared "as promptly as practical."⁴
- *Applicant review of draft permit.* Although not required to do so, the department has provided copies of draft permits to facilities for review. Applicants are given ten days to review the draft.
- *Public comment period.* Regulations specify that draft Title V permits be made available for review by the public for 30 calendar days.⁵ The department is required to publish notices in area newspapers, and provide copies of draft permits and technical memoranda at appropriate public locations. Public hearings may be held if requested.
- *Environmental Protection Agency review period.* The department is required to send a draft of each Title V permit to the U.S. Environmental Protection Agency for review.

⁴ IDAHO ADMIN. CODE, May 1, 1994, IDAPA 58.01.01.363.

⁵ Facilities and the Environmental Protection Agency are also afforded the opportunity to review draft permits during the public comment period.

Statutes specify that the Environmental Protection Agency be given 45 days to review permit drafts.

- *Permit issuance/handoff.* After making any adjustments based on feedback received during facility, public, and Environmental Protection Agency review, the department issues the final Title V permits.⁶ Permit handoff meetings may be held with the permittees to discuss permit provisions.

The Clean Air Act requires that the Title V program be fully funded through fees charged to regulated facilities. State and local permitting authorities are required to collect fees, based at least in part on the quantity of pollutants discharged. The Department of Environmental Quality began charging annual fees to Title V facilities in 1993.

Federal law requires the Title V program to be fully funded from fees.

The Permit to Construct Program

The department also administers a construction permit program. This program requires those wishing to build or make significant changes to facilities to obtain a “Permit to Construct” before beginning work on a project. Permits may be developed to address all aspects of an entirely new facility, or may be limited to specific emission sources, such as adding or replacing a boiler, at an existing facility. The department was first authorized to issue construction permits in 1969. The construction permitting program has been funded primarily from federal grant and state General Fund monies.⁷

The department also issues construction permits to those wishing to build or modify facilities emitting air pollutants.

Department’s Administration of the Title V and Permit to Construct Programs

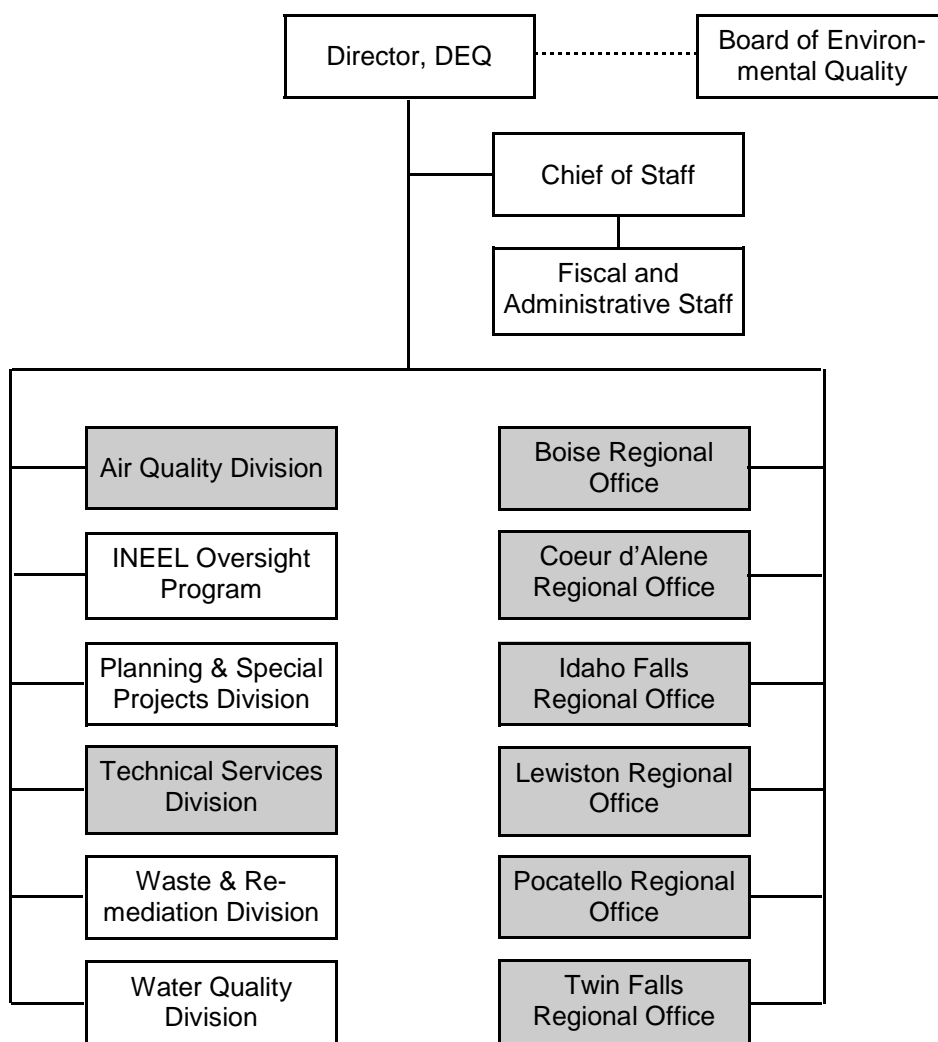
Figure 1.1 provides an overview of the Department of Environmental Quality’s current organizational structure.

⁶ Title V permits are generally issued for a five-year period and must be renewed.

⁷ Since 1995, the department has used Title V fee revenues to cover costs of developing some permits to construct at Title V facilities. The department informally agreed to stop using Title V fee revenues to this purpose in July 2001. Beginning in fiscal year 2003, applicants for Permits to Construct will be required to pay a processing fee to cover a portion of the cost for these permits.

Various units within the Department of Environmental Quality are responsible for aspects of the Title V and Permit to Construct programs. The Air Quality Division coordinates both programs and conducts enforcement efforts. Engineering staff in the Technical Services Division are responsible for writing air quality permits. Staff in the department's regional offices are responsible for conducting periodic inspections of permitted facilities.

Figure 1.1: Department of Environmental Quality Organizational Structure



Source: Office of Performance Evaluations' summarization of Department of Environmental Quality organizational charts as of January 2002.

Timeliness of Title V Permit Issuance

Chapter 2

As discussed in the introduction, concerns were raised that the department has been slow to issue Title V permits. We found that the department failed to meet federal timelines for issuing permits and has lagged behind other states in permit processing. Lengthy program development activities, periodic requests for application updates, inefficient permit processing, and the absence of other necessary permits have all contributed to delays in issuing Title V permits.

Despite these past performance problems, the department has recently taken steps to improve its execution in issuing Title V permits. Since December 2000, the department has issued permits to 17 of the facilities in the initial population, and has committed to complete the remaining 37 by the end of 2002.¹ While this schedule is ambitious, requiring the department to issue over twice as many permits in 2002 than it has in all the previous years of the program combined, the department appears to be on schedule to meet this goal at the present time.

We addressed concerns about the department's timeliness in issuing Title V permits.

The Department Has Been Slow to Issue Title V Permits

To determine the department's timeliness in issuing Title V permits, we reviewed the Clean Air Act requirements, Environmental Protection Agency information, the department's Title V management data, and permit issuance information for Idaho's neighboring states. We found:

¹ These 54 facilities are those that submitted a Title V permit application within one year after the department received approval to issue permits. As noted in Chapters 3 and 4, a total of 63 facilities (including the Idaho National Engineering and Environmental Laboratory) paid Title V fees during 2001.

- **The Department of Environmental Quality has been slow in issuing Title V permits, missing federally established deadlines and trailing behind issuance rates of most other states.**

As of April 2002, the department had issued Title V permits to only 31 percent of facilities needing one.

The department has not met permit issuance deadlines specified in the federal Clean Air Act. The Act requires state and local permitting authorities to issue permits to all initial permit applicants within three years of program approval by the Environmental Protection Agency.² The department received initial approval for its program in January 1997, yet did not issue its first Title V permit until December 2000—nearly four years later. As of April 2002, the department had issued Title V permits to 17 (31 percent) of the 54 facilities from the initial applicant pool still identified as needing one.³ Of the permits issued to 17 initial applicants, an average of 5.5 years passed from the time the department received a facility application to issuance of a permit. For the 37 facilities yet to receive a permit, the department has been in possession of a Title V application for an average of 6.7 years.

In contrast, the EPA reports that 70 percent of facilities nationwide had received permits.

Many other states also did not meet the timeframes set out in the Clean Air Act for issuing the initial group of Title V permits. According to a recent report by the Environmental Protection Agency's Office of the Inspector General, as of December 31, 2001, 89 of 112 state and local agencies responsible for issuing permits (79 percent) had not issued Title V permits to all facilities.⁴

However, most other state and local permitting authorities have issued a higher percentage of their Title V permits than Idaho. Nationwide, the Environmental Protection Agency reports that Title V permits have been issued to 70 percent of facilities identified as needing one as of March 30, 2002. In addition, as

² This group included facilities in operation as of May 1, 1994 and other facilities submitting applications within a year after program approval.

³ The department has also issued synthetic minor permits to a number of facilities that were in the initial Title V applicant pool. However, as discussed later in the report, the department does not have an accurate count of synthetic minor permits issued.

⁴ This report attributes these delays in part to the fact that the Environmental Protection Agency has not used sanctions allowed for by the Clean Air Act to encourage the timely issuance of Title V permits. According to this report, the Environmental Protection Agency has not served any notices of deficiency to states that did not issue Title V permits within three years of program approval.

Table 2.1: Initial Title V Permits Issued in Idaho and Neighboring States, Calendar Years 1995–2002

State	Program Approval	1995	1996	1997	1998	1999	2000	2001	2002 ^a	Total	Universe	Percent Issued
Idaho	1/97	0	0	0	0	0	4	13	0	17 ^b	54	31%
Montana	6/95	0	0	3	18	15	8	14	1	59	61 ^c	97
Nevada												
Environmental Protection	1/96	0	0	3	3	2	4	1	1	14	27	52
Local Permitting Authorities	8/95	0	0	1	4	2	1	1	0	9	21	43
Overall		0	0	4	7	4	5	2	1	23	48	48
Oregon												
Environmental Quality	1/95	16	25	26	33	17	10	2	0	129	129	100
Local Permitting Authorities	1/95	0	0	4	1	0	5	8	2	20	20	100
Overall		16	25	30	34	17	15	10	2	149	149	100
Utah	7/95	0	0	17	12	4	18	9	1	62	92	67
Washington												
Department of Ecology	12/94	0	3	7	2	3	3	5	0	23	31	74
Local Permitting Authorities	12/94	0	1	9	14	17	16	16	6	79	101	78
Overall		0	4	16	16	20	19	21	6	102	132	77
Wyoming	2/95	0	37	48	28	19	9	4	2	147	152	97

^a Includes permits issued through mid-April 2002.^b While Idaho had issued a total of 19 Title V permits as of mid-April 2002, two of these were modifications or amendments to existing Title V permits for which applications were received in 2001.^c Montana officials reported that the two remaining permits have been developed but are currently under appeal by the facilities.

Source: Office of Performance Evaluations' analysis of permit issuance statistic obtained from EPA regional offices, neighboring states, and the Idaho Department of Environmental Quality.

shown in Table 2.1, each of Idaho's neighboring states have issued a higher percentage of their permits than Idaho. Furthermore, these states began issuing permits much sooner than Idaho. Oregon and Wyoming issued their first Title V permits in 1995 and 1996, and both states have begun processing permit renewals.

Delays Have Resulted from Several Factors

To determine what factors contributed to the delays in issuing Title V permits in Idaho, we reviewed correspondence and information from the Environmental Protection Agency, examined meeting minutes from DEQ's Title V permit development group, reviewed Title V application history information for a sample of facilities, and interviewed department staff and industry representatives. We found:

- **The Department of Environmental Quality's lengthy program development activities delayed issuance of Idaho's Title V permits.**

The department lagged behind nearby states in obtaining federal approval for its Title V permit program. Under the Clean Air Act, a state or local entity can not issue Title V permits until the Environmental Protection Agency approves its program. The department took longer than surrounding states to obtain program approval. While Idaho originally submitted its Title V program in November 1993, the Environmental Protection Agency determined that the submittal was incomplete and needed revision. The department resubmitted its program plan in January 1995, but was required to make further changes on two occasions before receiving program approval in January 1997. As shown in Table 2.1, Idaho's six neighboring states received program approval much earlier—Washington more than two years earlier and the others one to two years earlier.

The department's effort to work with industry to determine how Title V permits would be formatted and what they would include led to further delays. In February 1997, shortly after receiving program approval from the Environmental Protection Agency, but about two years after receiving its first applications from facilities, the department formed a group consisting of department staff and industry representatives to negotiate the development of the first four permits and to establish models for future Title V permits. The department planned to complete the negotiation

The department lagged behind neighboring states in obtaining EPA approval for its Title V program.

Subsequent efforts to determine permit content and format also contributed to delays in issuing permits.

process within three months. However, the group met sporadically for more than a year and a half, and even then, a number of issues remained unresolved. The benefits resulting from these negotiations appear minimal. The department's permit writers said the Environmental Protection Agency heavily criticized the draft permits the group created and pointed out that consensus reached in the negotiations has not been used in the permit process. Industry representatives we spoke with felt that the effort was only moderately successful, because certain agreements from the meetings have been carried out by the department while others have not. Further, none of the four facilities that participated in this group has received a final permit, and the development of permits for other facilities was delayed while this process was underway.

We also found:

- **The Department of Environmental Quality's requests for application updates contributed to delays in Title V permit issuance.**

Because the department did not begin actively working on many Title V permits until well after applications were received, it was necessary to request updated information from permit applicants. In our review of Title V application histories, we identified a number of cases in which the department requested updated information from applicants. For example:

- In 1997 and early 1998, the department sent letters to some facilities indicating that processing had begun and asking the facilities to submit any updated information.
- In July 1998, the department sent out a letter to applicants requesting that they update their applications because of rule changes made during the previous years.

The requests for updated information often added substantial time to the permitting process. For example:

- One facility requested and received five separate time extensions for submitting the update information requested in the July 1998 letter. These extensions totaled approximately 223 days.
- Another facility received two extensions totaling approximately 150 days. The first extension request stated

In some cases, requests for application updates led to substantial delays in permit processing.

that an extension was needed because a significant amount of information may have been required for the update.

- A third facility requested extensions to provide the information requested in the department's July 1998 letter and, as a result, did not submit an update until eight months after the original due date. However, after receiving the information from the facility, the department determined that the application was incomplete. The application was not determined complete until May 2000, almost two years after the department sent its original request.

We also found:

- **The Department of Environmental Quality has not efficiently used the Title V efforts of its staff.**

In our review of Title V application histories, we identified a number of instances in which key steps in the permitting process were repeated or did not otherwise appear to advance projects towards completion. Specifically, while department staff completed draft permits for facilities, sent drafts out for public comment, and met with facilities to resolve permitting issues, these efforts often did not facilitate the creation of final permits, and for some facilities these steps occurred multiple times. For example:

Key steps in the permitting process were sometimes repeated or did not advance projects towards completion.

- The department issued one facility a draft Title V permit on at least three separate occasions, all in 1998 and 1999. In addition, a permit draft for the facility was sent out for public comment in 1999. Further, department staff met with facility representatives on several occasions in 1999 and 2000 regarding the Title V permit. In correspondence with the department, facility representatives expressed frustration with the time taken to resolve issues and to obtain a permit. However, as of mid-April 2002, this facility still had not received a final Title V permit.
- In May 2000, the department advised a facility that it is was expediting the processing of the facility's Title V permit and provided a draft copy of the permit for the facility to review. In December 2000 the department provided another draft permit to the facility and indicated that the facility's draft permit was being sent for public comment. However, despite these efforts, the facility had not received a final permit as of mid-April 2002, and received notification that a revised draft

of its permit is again scheduled to be sent out for public comment.

- In 1996, one Title V facility offered to prepare a draft of its own permit and submit it for department review. The department received this draft permit in 1996 and met with the facility to review the draft in 1997. The facility modified the draft based on the discussions with the department, and department officials indicated that the draft was to be circulated for further review within the department. However, these efforts did not result in issuance of a final permit. During the course of our review, a team of department staff was preparing a new draft of the permit for this facility, and as of mid-April 2002 a final permit had not been issued.

Department staff confirmed that permitting efforts were sometimes wasted. One permit writer explained that projects assigned to him have sometimes already had drafts prepared but that he has started over from the beginning in preparing new permit drafts and has not used the previous drafts in his work. Further, another permit writer explained that Title V projects have been reassigned from one permit writer to another, and in at least one instance the work on the project started over after the reassignment. As a result, the previous efforts put in by staff on Title V projects have not always advanced the issuance process but instead resulted in the use of DEQ time and resources.

Finally, we found:

- **The Department of Environmental Quality's progress in issuing Title V permits was slowed by the lack of other necessary permits at some facilities.**

The lack of necessary foundation permits at many Title V facilities also contributed to delays in issuing permits. As previously noted, Title V permits were not intended to impose new emissions and control requirements on facilities. Instead, they were intended to consolidate existing requirements from all construction and operating permits previously issued to facilities. Consequently, these previously issued permits serve as the foundation for the Title V permits.

However, department officials report that many facilities lacked some of these underlying permits and, as a result, were missing emissions and control limits for some pollution sources. In addition, permit writers told us that even when permits were in

In some cases, Title V permit development efforts were begun again when projects were reassigned from one permit writer to another.

The lack of other construction and operating permits impeded Title V permit development.

place, the permits sometimes did not reflect current operating practices at the facility. In these cases, the department attempted to develop or modify foundation permits before developing Title V permits for the facilities. These efforts significantly added to the time taken to issue Title V permits in some cases.

The Department's Revised Approach Offers Prospect for Greater Progress, but Some Issues Still Need Resolution

To issue Title V permits in a more timely manner, the department has revised its approach. We assessed this new approach and the progress the department is making under it. We found:

- **The Department of Environmental Quality's recent improvements to the Title V permitting process have led to faster issuance of permits.**

Improved management of the permit program has led to issuance of 17 Title V permits in the past two years.

The department's current administration has taken a number of steps to better manage the permitting process. When the department administration took over in 1999, no Title V permits had been issued. Since that time, the department has issued 17 Title V permits and finalized two permit modifications. Within the past two years, the department began establishing budgets for each permit project. These budgets specify both the number of hours estimated to complete the project and the expected cost. Timelines have also been established for completion of each project. These timelines identify the target date for issuing each permit as well as deadlines for each of the key steps in the process. This budget and timeline information is included in work requests prepared for each project. The work requests are forwarded to the assigned permit writer and are designed to provide permit writers with a baseline for completing particular activities in the process and to ensure the final permits are finished on time. The Technical Services manager reviews weekly progress reports and monitors each project and its budget. The Title V program manager also tracks information on the progression of the permits and the budget amounts.

The department's administration has also established a deadline for issuing all of the initial Title V permits. In October 2001, the department director sent a letter to the Environmental Protection Agency committing to have initial Title V permits issued by

December 31, 2002.⁵ At that time, the department had 40 Title V permits remaining to complete.

The department developed a schedule for processing these permits by the end of the year. As of mid-April 2002, Title V permits subsequently have been issued to two of the initial Title V facilities, with 37 remaining in the permitting process.⁶ Of these remaining permits, the department has completed draft permits for 16 facilities, just two fewer than projected under the department's timeline. Draft permits for 12 of these facilities have circulated for a public comment period and two others have been sent to the Environmental Protection Agency for review after undergoing public review. Further, the department has assigned at least two projects to a contractor for processing.

The department's plan to issue the remaining permits by the end of 2002 is ambitious, requiring the department to issue more than twice as many permits in one year as have been issued since it received program approval in 1997. Nevertheless, review of departmental management information indicates that the department is generally on schedule to meet the deadline for those it is currently processing. However, while still on schedule for a 2002 issuance, the department has missed the target dates of four facilities for the public comment period and two facilities for Environmental Protection Agency review. The majority of projects are shown to be either at or below expected budget use though, with only seven exceeding project budget amounts at their current phase in the process.

To help ensure it meets the deadline for issuing permits, the department changed its approach of trying to resolve all issues and develop needed foundation permits before issuing a Title V permit. Instead, such outstanding issues are now being addressed through compliance plans included in the Title V permits. The compliance plans allow issuance of a Title V permit by requiring facilities to resolve issues and obtain any needed permits within a specified time period after receiving the Title V permit. While this approach will allow the department to issue the Title V permits more rapidly, it will create more work in subsequent

Department management has committed to issuing the remaining 37 initial permit applications by December 2002.

While this schedule is ambitious, the department is currently on pace to issue the remaining permits by years' end.

To meet the 2002 deadline, the department has put off addressing other permitting issues.

⁵ This letter was sent in response to a request from the Environmental Protection Agency that the department provide a revised schedule for the issuance of the initial Title V permits in Idaho.

⁶ While the department's October 2001 letter to the Environmental Protection Agency reflected 40 initial Title V facilities still needing permits, current department data account for only the 39 facilities discussed here.

years, as the department will need to resolve deficiencies at a later time.⁷ The department is currently working with the Environmental Protection Agency's Pacific Northwest Regional Office (Region X) to implement this new approach. While this progress is encouraging, we noted several matters that need attention. In attempting to measure the department's workload for Title V facilities, we found:

The department has not maintained an accurate list of facilities originally subject to Title V requirements.

- **The Department of Environmental Quality has kept incomplete and inconsistent management data for tracking progress towards issuing Title V permits.**

The department was not able to provide a complete list of the initially identified Title V facilities in the state or their status in complying with Title V requirements. Information provided by department staff indicates that Idaho's initial Title V population ranged from 142 to 400. However, the 2001 letter from the department director to the Environmental Protection Agency indicated that 107 facilities were included in Idaho's initial Title V population. Title V data from the department's information systems could provide status information on fewer than 100 facilities.

Specifically, the department could not provide a complete list of facilities that opted out of program by agreeing to keep emissions below Title V levels.

One reason that the department's data does not show all Title V facilities is that some facilities originally included in the Title V population were subsequently issued synthetic minor permits, under which they agreed to keep their emissions below the levels that would require Title V permits. However, while department officials told us early program efforts focused on removing many initial sources from the Title V program by issuing them synthetic minor permits, it has not kept an accurate record of the number of facilities that have made this shift. Department accounts of the number of facilities issued synthetic minor permits vary significantly. In a 2001 quarterly report to the Joint Finance and Appropriations Committee, the department reported that it had issued over 100 synthetic minor permits to potential Title V sources. However, the 2001 letter from the department director to the Environmental Protection Agency indicated that the department had issued synthetic minor permits to 47 facilities. Department officials acknowledged that coding of synthetic minor permits in department databases has been inconsistent and

⁷ Department information, as of May 11, 2002, indicates that 19 of the initial Title V facilities yet to receive a Title V permit will require the inclusion of a compliance plan in the permit.

that a complete and accurate listing of facilities receiving these permits is currently not available.

The lack of a comprehensive list of the facilities receiving synthetic minor permits could hinder the department from properly monitoring these facilities for compliance with emissions limitations. Because these facilities have the potential to emit at Title V levels, not being able to identify them may prevent the department from determining if facility emissions are exceeding permit limitations. Environmental Protection Agency guidance had recommended that synthetic minor facilities be inspected every two years. Of 40 synthetic minor facilities listed in an incomplete record produced by the department, 19 had not been inspected by the department within the last three years.⁸

While the department has tracked the progress of the Title V applications currently being processed, the spreadsheets used within the department did not always contain consistent data. The Title V program coordinator, the technical services group, and an analyst within the air quality program office tracked Title V activity in different spreadsheets. While designed to capture much of the same information, the contents of the three reports from a similar time period were not always consistent with each other. For example, for one facility the spreadsheet kept by the analyst in the air quality program office showed a projected final date for the facility's Title V permit at June 1, 2002, while the Title V program coordinator's report showed the Title V permit was scheduled to be issued on July 5, 2002. Finally, the report from the technical services group, which includes the staff that actually write the Title V permit, noted a forecast finish date of August 31, 2002. However, the department officials indicated a new tracking database is being developed. This new database, while capturing much of the same type of information that is currently tracked, is intended to provide data consistency by creating a single central information source for department and regional staff. This database is further intended to allow for flexibility in the way the information can be presented and generated into reports.

Without a facilities list, the department cannot ensure facilities are complying with emission limits.

Information used by program managers to track permit development has been inconsistent.

⁸ The Environmental Protection Agency revised this guidance in 2001 to recommend a full-compliance evaluation every five years for those synthetic minor facilities that emit or have the potential to emit at or above 80 percent of the Title V emissions threshold. The department will implement this approach beginning in fiscal year 2003.

To ensure that management has accurate and complete information about Title V and synthetic minor facilities:

We recommend the Department of Environmental Quality take steps to improve tracking information for Title V permitting projects.

Specifically the department needs to:

- Develop an accurate list of initial Title V facilities in Idaho and their permit status;
- Ensure the accuracy and consistency of the information presented in various reports used by department staff; and,
- Continue moving toward a single centralized database to provide consistent information for use by the entire department and regional staff.

We also found:

- **The Department of Environmental Quality has not established Title V permitting guidance for its permit writers.**

The department has provided little written guidance to staff responsible for preparing Title V permits.

The department has provided little guidance to staff responsible for developing Title V permits. According to department permit writers, standardized direction on how to complete permits has not been available. Further, permit writers have not received any formal training for preparing permits. A permit writer explained that on previous occasions written permits have been used as a guide for drafting new permits but that content and format changes, and different philosophies used in preparing permits make them difficult to use when creating new permits. No other written direction has been developed to guide a permit writer in preparing permits. By contrast, Oregon, which has had much success in issuing Title V permits, created guidance for permit writers early in the Title V program. This guidance includes an entire section on drafting federal operating permits, including segments on permit terms and conditions, public participation, and contested permits. While written permitting guidance is lacking in Idaho, the department has experience in creating guidance for other department functions. For example, the department has created written procedures for its enforcement functions.

The lack of guidance extends to consistency in how the permits are put together. The department has established templates showing the format for a Title V permit, but various changes to these have occurred over the years, and permit writers told us that they have sometimes had to spend much time altering previously written permits to match the format of new templates. In fact, one permit writer said that making formatting changes has taken longer than drafting the permits. In Wyoming, a permit template was developed and has been consistently used to minimize the time spent on formatting. Guidance and standardization would help the department permit writers with how to address particular and common issues in a consistent format set by the department to meet the necessary permit requirements. Therefore:

We recommend the Department of Environmental Quality develop written guidance that establishes standard procedures for permitting staff to follow when developing permits.

Adequacy of Funding for the Title V Program

Chapter 3

Another concern prompting this review involved the adequacy of funding of the Title V program. The 1990 amendments to the Clean Air Act, which established the Title V permitting program, require that program costs be fully funded by fees charged to the facilities requiring Title V permits.¹ To respond to concerns we reviewed applicable laws and regulations, as well as available financial information. We also spoke with department staff, federal officials, representatives of the regulated community, and Title V permitting staff in other states. Overall, we conclude that current program funding will be inadequate to sustain the program at current spending levels due to declining fee revenues and increased expenditures in recent years.

**We examined
concerns
regarding an
imbalance in
program
revenues and
expenditures.**

As a part of Idaho's implementation of the Clean Air Act amendments, the Legislature enacted statutes establishing the Idaho Air Quality Permitting Fund and authorizing the department to establish fees through administrative rule. Statutes further require that fee receipts and all interest earned on those receipts be kept in the fund and used to implement the Title V program.² Initially, the department established an annual fee of \$30 per ton of regulated pollutants. Facilities defined as major sources by federal regulations began paying fees in April 1993.

Current Title V Permit Fees Are Inadequate to Sustain the Title V Program at Present Spending Levels

To examine the adequacy of program funding, we reviewed financial information related to the program. Additionally, we spoke with department staff, federal officials, and Title V permitting staff in other states and reviewed applicable laws and regulations. We found:

¹ CLEAN AIR ACT, 42 U.S.C. §§ 7401–7671q.

² IDAHO CODE §§ 39-118B through 39-118D (1998 and Supp. 2001).

- **Funds available to support the Title V program are declining and could be insufficient to meet program obligations before the end of fiscal year 2003 if current revenue and expenditure patterns continue.**

The amount of available funds (the “fund balance”) depends upon both receipts and disbursements over time. As part of our review, we examined the trends in revenues and expenditures associated with the Title V program. We found:

- **Title V fee revenues have declined nearly every year since 1994.**

As Table 3.1 shows, fee receipts for fiscal year 2001 were nearly \$1.1 million less than fee receipts during fiscal year 1994. This represents an overall decline in annual revenues of about 49 percent.

Annual fee revenue for Idaho’s Title V program declined from \$2.3 million in FY1994 to \$1.2 million in FY2001.

Fee revenues have declined for several reasons:

- The number of facilities paying Title V fees has dropped substantially. During fiscal year 1995, fees were collected

Table 3.1: Air Quality Permitting Fees, Fiscal Years 1993–2001^a

<u>Fiscal Year</u>	<u>Fee Receipts</u>
1993 ^b	\$ 1,061,357
1994	2,318,394
1995	2,155,524
1996	1,638,841
1997	1,537,457
1998	1,286,922
1999	1,112,340
2000	1,340,602
2001	<u>1,177,588</u>
Total	\$13,629,025

^a Excluding U.S. Department of Energy grant payments.

^b Because fee collections began in April 1993, this number includes only payments received during April–June 1993.

Source: Statewide Accounting and Reporting System (STARS) and Department of Environmental Quality data.

from more than 200 facilities; in fiscal year 2001, the number had dropped to 62. One reason for the decline is that some facilities agreed to limit their emissions and obtain synthetic minor permits instead of seeking Title V permits.³ In addition, other facilities paid very small amounts in 1994 and 1995, indicating a low level of emissions, and may have later been determined not to be subject to the provisions of Title V. Still other facilities appear to have ceased operations.

- In 1995, a Senate Concurrent Resolution removed carbon monoxide emissions from the list of pollutants used for fee calculation purposes. For facilities with carbon monoxide emissions, this change had the effect of lowering the fee.
- In 1997, the department amended its rules to base Title V fees on *actual* emissions rather than on facilities' *potential* emissions. At least partially for this reason, overall emissions declined by about 5,600 tons, resulting in reduced fee revenues of about \$170,000 that year.
- Finally, in March 2001, a modified fee structure was adopted that capped fees paid by Title V facilities. This new fee structure is tiered, and includes fixed annual fees and variable emissions-based fees with a fee cap. Figure 3.1 shows the current fee structure. As shown, 45 of the 62 facilities paid the maximum total fee for their emission level. As a result of the modified fee structure, particularly the addition of fee caps, fee revenues declined significantly. In calendar year 2001, facilities paid about \$500,000 less than they would have paid under the previous fee schedule.

The recent change in the fee structure not only reduced total fee revenues, it also required smaller facilities to pay a larger portion of program costs. When payments were based solely on emissions, facilities generally paid fees in proportion to their emissions. However under the current fee structure, facilities discharging less than 200 tons of regulated pollutants annually paid 19 percent of total fees in 2001 but were responsible for only 9 percent of emissions statewide. In contrast, one large facility was responsible for 38 percent of total emissions but paid only 16 percent of the fees. Additionally, because of the annual fixed fee, 30 of these 40 smaller facilities paid more under the revised fee structure than they would have under the previous schedule.

³ As noted earlier, estimates of the number of synthetic minor facilities ranged from 47 to more than 100.

The number of facilities paying Title V fees dropped significantly from FY1994–FY2002.

Several changes in the way fees are calculated have also contributed to the decline in revenues.

Recent changes in the fee structure required smaller facilities to pay a larger portion of program costs.

Figure 3.1: Title V Fee Schedule Maximums with Number of Facilities at Each Emission Level, Calendar Year 2001

<u>Tons of Air Pollutants Emitted</u>	<u>Fixed Annual Fee</u>	<u>Maximum "Per Ton" Fee</u>	<u>Maximum Total Fee</u>	<u>Number of Facilities</u>	<u>Facilities Paying Maximum Total Fee</u>
< 200 tons	\$ 2,500	\$ 2,500	\$ 5,000	40	27
200–499 tons	5,000	7,500	12,500	9	6
500–999 tons	7,500	17,500	25,000	5	4
1000–2999 tons	15,000	25,000	40,000	4	4
3000–4499 tons	20,000	50,000	70,000	3	3
4500–6999 tons	30,000	100,000	130,000	0	0
7000 tons or more	50,000	100,000	150,000	<u>1</u>	<u>1</u>
Total				62	45

Source: Office of Performance Evaluations' analysis of administrative rules and Department of Environmental Quality data.

Title V Revenues May Further Decline in 2002 Because of Lower Payments for the Idaho National Engineering and Environmental Laboratory

The department has negotiated annual fee payment amounts for the INEEL.

The federal government has made annual payments to the department for federal facilities in Idaho that are subject to Title V requirements. For two of the facilities, the federal government has paid emission-based fees in the same manner as private sector Title V facilities.⁴ In contrast, for the Idaho National Engineering and Environmental Laboratory, the Department of Environmental Quality and the U.S. Department of Energy have negotiated annual fee amounts in lieu of an emissions-based Title V fee. The Idaho Administrative Code authorizes the department to negotiate fee payment amounts in lieu of standard program fees.⁵

⁴ The two federal facilities paying emission-based Title V fees are Mountain Home Air Force Base and the Naval Reactors Facility in Idaho Falls.

⁵ IDAHO ADMIN. CODE, May 1, 1994, IDAPA 58.01.01.538. The rule specifies that negotiated fee payments be at least \$300,000 annually.

Table 3.2 shows that annual grant payments have ranged from approximately \$350,000 to nearly \$550,000 each year. These payments have been paid as a part of the Environmental Oversight and Monitoring Agreement grant and have been accounted for and reported as grant funding separately from other Title V funds. These payments are, therefore, not included in Table 3.1.

In January 2002, the U.S. Department of Energy, expressing a desire to be treated the same as other Title V facilities, notified the department it will continue making negotiated fee payments only through the end of fiscal year 2002. Beginning in May 2002, the Department of Energy has stated it will pay a permit fee based on the Idaho National Engineering and Environmental Laboratory's actual emissions of regulated pollutants in the same manner as other major sources.

This change would significantly reduce the revenue received from the Idaho National Engineering and Environmental Laboratory. Based on its emissions of regulated pollutants during 2000, the Idaho National Engineering and Environmental Laboratory would have paid a permit fee of about \$22,500 in 2001. In addition, under the department's administrative rules the facility could be required to pay a fee of five dollars per curie for potential

Negotiated fees for INEEL have ranged from \$350,000 to \$550,000 annually.

Beginning in FY2003, the federal government intends to pay fees based on INEEL's actual emissions.

Table 3.2: U.S. Department of Energy Air Quality Grant Payments, Fiscal Years 1996–2001

<u>Fiscal Year</u>	<u>Amount</u>
1996	\$ 545,932
1997	511,919
1998	509,187
1999	354,547
2000	446,938
2001	<u>468,220</u>
Total	\$2,836,743

Source: Statewide Accounting and Reporting System and Department of Environmental Quality data.

As a result, annual fee payments for INEEL could drop to about \$39,000 annually.

radionuclide emissions based on the facility's permit limits.⁶ Although the permit limits for this facility have not yet been established, based on the facility's active radionuclide emissions during 2000, this fee would be approximately \$16,600. Consequently, annual regulated pollutant and radionuclide fees could drop to approximately \$39,000 annually.

Four owners of relatively large Title V facilities have requested assistance from a member of Idaho's congressional delegation to try to get this funding restored. They question whether the Idaho National Engineering and Environmental Laboratory will pay its fair share of program costs if this change is made.⁷ They also expressed concern about the increased burden that would be placed on private sector Title V facilities if fees paid by the federal government are reduced.

Title V Program Expenditures Have Exceeded Revenues, Leading to a Decline in Available Funding for the Program

In reviewing expenditure levels for the program, we found:

- **Annual Title V expenditures have generally increased, and since fiscal year 1998 Title V expenditures have exceeded revenues.**

The available fund balance for the Title V program declined by \$1.5 million from FY1997 to FY2001.

Table 3.3 shows Title V expenditures since fiscal year 1996. The table includes expenditures of general fee revenue and negotiated fee payments made by the U.S. Department of Energy. As the table also shows, overall program expenditures increased by about \$525,000 between fiscal years 1996 and 2001.

Although revenues exceeded expenditures from fiscal years 1993 through 1997, expenditures have exceeded revenues in subsequent years. Figure 3.2 shows Title V revenues and expenditures since fiscal year 1996 and their effect on the Air Quality Permitting Fund balance. As shown, the fund balance peaked at about \$3.9 million at the end of fiscal year 1997 and

⁶ IDAHO ADMIN. CODE, May 1, 1994, IDAPA 58.01.01.527.07. A "radionuclide" is a type of atom that spontaneously undergoes radioactive decay. A "curie" is a unit of measurement of that decay.

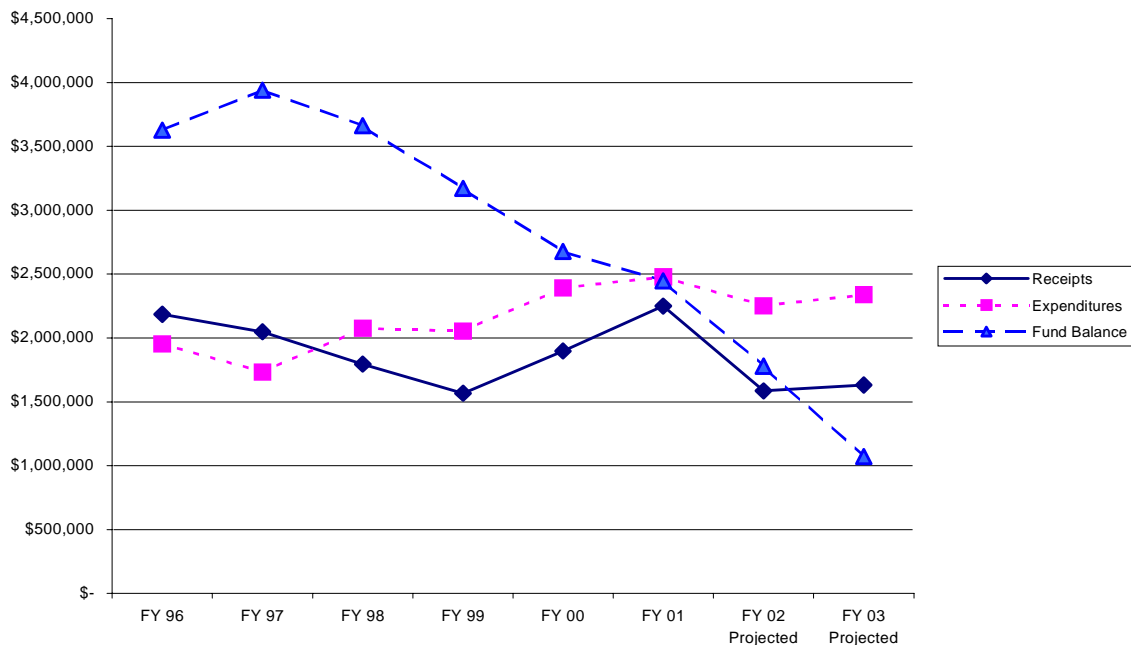
⁷ The department has projected that, because of its complexity, approximately 7,000 hours will be needed to issue this facility's Title V permit.

Table 3.3: Title V Expenditures, Fiscal Years 1996–2001^a

	<u>FY1996</u>	<u>FY1997</u>	<u>FY1998</u>	<u>FY1999</u>	<u>FY2000</u>	<u>FY2001</u>
Title V Permit Fees						
Direct personnel	\$1,066,268	\$1,045,963	\$1,109,067	\$1,192,645	\$1,347,346	\$1,363,358
Direct non-personnel ^b	119,067	73,766	121,658	106,931	373,150	368,695
Indirect ^c	<u>221,810</u>	<u>102,748</u>	<u>392,732</u>	<u>402,318</u>	<u>225,500</u>	<u>279,284</u>
Total from fees	\$1,407,145	\$1,222,477	\$1,623,457	\$1,701,894	\$1,945,996	\$2,011,337
U.S. Department of Energy Grant						
Direct personnel	\$ 337,570	\$ 327,217	\$ 328,275	\$ 231,785	\$ 292,762	\$ 305,443
Direct non-personnel ^b	12,780	11,930	21,807	20,572	39,089	43,960
Indirect ^c	<u>195,582</u>	<u>172,772</u>	<u>159,104</u>	<u>102,190</u>	<u>115,087</u>	<u>118,817</u>
Total from grant	\$ 545,932	\$ 511,919	\$ 509,187	\$ 354,547	\$ 446,938	\$ 468,220
Total expenditures	\$1,953,077	\$1,734,396	\$2,123,644	\$2,056,441	\$2,392,934	\$2,479,557

^a May not sum due to rounding.^b Includes operating expenses, capital outlay, and trustee/benefit payments.^c Allocation of department "overhead" such as legal, human resource, information technology, and other services.

Source: Office of Performance Evaluations' analysis of Department of Environmental Quality data.

Figure 3.2: Air Quality Permitting Funds: Revenues, Expenditures, and Fund Balance (Inc. Department of Energy Funds)

Source: Office of Performance Evaluations' analysis of the Statewide Accounting and Reporting System (STARS) and Department of Environmental Quality data.

This decline would have been greater if not for two lump sum interest payments totaling \$1.01 million.

If current revenue and expenditure patterns continue, the program's fund balance will drop to \$1 million by the end of FY2003.

declined to about \$2.4 million at the end of fiscal year 2001. The inefficiencies and delays discussed in Chapter 2 have likely contributed to the decline in fund balance.

These declines would have been even greater had it not been for two recent interest payments that have helped offset part of the decline in fee revenues. State statutes require that interest earned on funds in Air Quality Permitting Fund be used to support Title V permitting activities. However, during a financial audit of the fund for fiscal year 1999, legislative auditors found that an estimated \$1.01 million in earned interest had not been retained in the fund as required. Legislation was passed directing the State Controller to transfer \$510,000 from the general fund to the Air Quality Permitting Fund in fiscal year 2001 and to transfer \$500,000 from the Water Pollution Control Fund to the Air Quality Permitting Fund in fiscal year 2003. Additionally, interest of approximately \$100,000 annually has been retained in the fund since fiscal year 2000 and is also reflected in Figure 3.2.⁸

Based on actual expenditures during fiscal year 2001 and the first nine months of fiscal year 2002, we project that the fund balance will further decline to about \$1.7 million at the end of fiscal year 2002. This \$1.7 million represents approximately 8.3 months of operating expenses based on department expenditures during fiscal year 2001. Further, assuming that fee revenues and program expenditures (other than the interest payments and grant funding discussed) continue at the same level through the coming fiscal year, the fund balance will decline even further to about \$1 million by the end of fiscal year 2003. This is about 4.9 months of operating expenditures.

Current Fees Are Low Relative to Federal Standards and Other States' Fees

As part of our review, we compared Idaho's current fees with established federal guidelines and with fees in other states. We found:

- **Idaho's current fee structure, established in 2001, provides a level of funding that falls below federal guidelines.**

⁸ As the cash balance of the fund declines, earned interest should also decline.

As noted previously, federal statutes establishing the Title V permitting program require that the program be fully funded from Title V permit fees. To provide a guideline with which to assess the adequacy of state program funding, these statutes establish a “presumptive minimum” fee for Title V programs. States with fees set at or above the presumptive minimum are generally presumed to have adequate funding to cover program costs. However, states with fees falling below the presumptive minimum, can be required to demonstrate that the fees collected are sufficient to fund an adequate air quality permitting program. The presumptive minimum was set at \$25 per ton of regulated pollutants in 1990. Federal statutes also provide that the presumptive minimum be increased each year to reflect increases in the Consumer Price Index. Currently, the presumptive minimum is set at \$36.03.⁹

Federal regulations establish guidelines regarding minimum funding needed to support Title V programs.

In 1993, Idaho’s Title V fee was set at \$30 per ton of regulated pollutants. This per ton charge has not changed and is now about 17 percent below the presumptive minimum. In granting final approval to Idaho’s Title V program, the federal Environmental Protection Agency expressly deferred a determination of the sufficiency of Idaho’s fee rules until it conducts a fee review.¹⁰

Idaho’s current fees fall below the “presumptive minimum” amount.

In addition, as noted previously, Idaho’s fee structure was modified to add a fixed annual fee and to include fee caps. This change has resulted in a lower average fee per ton of emissions. Overall, fee payments during calendar year 2001 averaged about \$19 per ton of emissions.¹¹

We also found:

- **Idaho’s Title V facilities would pay more under most neighboring states’ fee schedules.**

⁹ The presumptive minimum will be adjusted again in September 2002 and will depend upon changes in the Consumer Price Index through August 2002. Assuming a 3 percent increase, the presumptive minimum would increase to \$37.11 per ton of emissions

¹⁰ Clean Air Act Full Approval of Operating Permits Program in Idaho, 66 Fed. Reg. 42490–42496 (2001).

¹¹ We did not include the Idaho Engineering and Environmental Laboratory in this calculation because the negotiated lump sum payment considerably exceeds its level of emissions and because these payments may be greatly reduced in the near future.

**Idaho's
neighboring
states use a
variety of
approaches to
assess fees on
Title V facilities.**

Because federal regulations give states and local Title V permitting authorities considerable discretion in establishing Title V fee schedules, states vary in how their fees are set. For example:

- Washington uses a three-tiered system in which it collects a third of its total fee revenues based on emissions at \$13.50 per ton, a third based on a complexity multiplier amounting to approximately \$10,000 to \$30,000 per facility, and the final third from a fixed annual fee of about \$18,000 per facility.
- Utah's rate is \$31.22 per ton of emissions capped at 4,000 tons.
- Wyoming imposes a \$10 per-ton rate but sets a cap of 4,000 tons on each of four regulated pollutants.¹²
- Oregon has a two-part fee consisting of a base fee of approximately \$3,000 and an emissions fee of \$35.79 per ton.

**We compared
the amount
Idaho's
facilities would
have paid in
Idaho and in
neighboring
states.**

Because fee structures vary and because the number, size and complexity, and emissions of facilities can affect overall fee revenues, a comparison of other states' fee schedules alone could be misleading. Therefore, we calculated fee amounts for each Idaho facility based on the emissions used to calculate 2001 fees, using neighboring states' fees schedules.¹³

Table 3.4 shows the total fee revenue that Idaho's facilities would pay under each states' fee schedule. Annual fees would range from less than \$500,000 per year using Wyoming's fee schedule to more than \$2.4 million per year using Washington's fee schedule. Idaho's Title V facilities would pay more under four of the six states' fee schedules.

¹² Wyoming's rate will increase to \$17.50 per ton on July 1, 2002.

Additionally, a Wyoming Department of Environmental Quality official told us its fees have been kept low to "spend down" an excessive fund balance.

¹³ During calendar year 2000, Idaho Title V facilities emitted a total of 48,353 tons of regulated pollutants.

Table 3.4: Fee Revenues for Idaho Title V Facilities, Calculated Using Neighboring States' Fee Schedules, Calendar Year 2001

<u>State</u>	<u>Total Fees</u>
Wyoming	\$ 458,132
Montana	843,405
Idaho^a	929,111
Utah	1,038,793
Oregon ^b	1,372,041
Nevada ^b	1,417,773
Washington ^b	\$2,423,044

^a Fees calculated on a calendar year basis to conform to other states' data.

^b Some facilities regulated by local or regional permitting authorities. We used only the state permitting authority's rate schedule.

Source: Office of Performance Evaluations' analysis of Department of Environmental Quality data and selected states' fee schedules.

Idaho's Title V facilities would have paid more under four of Idaho's six neighboring states' fee structures in 2001.

Options for Bringing Title V Program Revenues and Expenditures In Line

A variety of options could be considered to bring program expenditures and revenues in line. Among these are:

- Retaining the current fee structure and limit program spending to revenues generated. In this case, because the structure generates approximately \$19 per ton of emissions in the aggregate (or \$17 below the current presumptive minimum), the department would be required to demonstrate that it has sufficient funding for an adequate Title V permitting program. If found to be insufficient and not corrected within 18 months of notice of such insufficiency, federal statutes authorize the Environmental Protection Agency to impose sanctions or take over responsibility for the program from the state.
- Raising fees to the presumptive minimum and limit program spending to match this level of funding. At 2001 emission levels, a rate of \$37 per ton would generate approximately \$1.8 million with which to fund the Title V program. At this level, Idaho's total fee collections would be second highest of those listed in Table 3.4.

The department could consider several options to address the current imbalance in revenues and expenditures.

- Raising fees to match anticipated program spending levels. Program expenditures were approximately \$2.5 million in fiscal year 2001 and projected to be approximately \$2.3 million for fiscal year 2002. Department activity projections for fiscal year 2004 and beyond are somewhat lower at about \$2.1 million. To meet these spending levels, the department would have to collect approximately \$43 per ton of emissions or about 19 percent above the current presumptive minimum. At this level, Idaho's total fee collections would be second highest of those listed in Table 3.4.

Idaho's Title V fees could be structured in a variety of ways.

Federal regulations allow states to charge emissions-based fees, application fees, and service-based fees, among others. As a result, Idaho's Title V fees could be structured in a variety of ways. For example, Washington collects one-third of its fee revenue based on a facility's complexity. Adopting a fee of this type would enable the department to collect more from complex facilities independent of their emissions. Alaska has collected a portion of its revenues from a "permit administration fee" consisting of an hourly charge for staff time devoted to a specific facility. This type of fee would enable the department to base fees on actual costs incurred. The department's new accounting system has the ability to track costs by facility.

To resolve the declining fund balance:

We recommend the Department of Environmental Quality address the current imbalance between Title V program revenues and expenditures, and consider alternative factors, in addition to emissions, as a basis for Title V fees.

Accounting of Title V Permit Fee Revenues and Expenditures

Chapter 4

In the request for this evaluation, concerns were also raised regarding the appropriateness of expenditures from the program fund. We reviewed agency records, applicable laws and regulations and spoke with department staff and federal officials. Overall, we conclude that the department has appropriated segregated and accounted for Title V fees, but before fiscal year 2001, records did not identify the specific Title V activities for which Title V funds were used. We also found that since fiscal year 2001, the Department of Environmental Quality has maintained a more detailed accounting of Title V expenditures and can more readily demonstrate that its use of Title V fees is consistent with laws and regulations. However, we identified some areas where improvement is still needed and suggest ways to implement needed changes.

We also addressed specific questions as to whether the Department of Environmental Quality appropriately used Title V fees to issue Permits to Construct and Tier 2 permits to Title V facilities. From a review of federal guidance documents and discussions with federal officials we conclude that such use of Title V fees appears to be allowable.

Federal Statutes and Regulations Require Careful Handling of Title V Fees

Generally, fees paid by the regulated community are required to cover the full cost of the Title V program and are not to be used for other unrelated activities. Specifically, federal regulations state, “the State program shall require that the owners or operators of part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and shall ensure that any fee required by this section will be used solely for permit program costs.”¹

We examined concerns about whether Title V fees have been appropriately used.

Federal regulations specify that fees be used solely for program activities.

¹ 40 C.F.R. part 70, § 70.9(a).

Federal guidelines call for careful segregation and accounting of Title V funds.

The federal Environmental Protection Agency has established a protocol that its staff is to use in assessing whether state and local Title V permitting authorities have established an adequate accounting system for Title revenues and expenditures. Generally this protocol requires staff to answer the following questions:

1. Can the permitting authority show that sources are being billed in accordance with its fee requirement(s), and that sources are paying fees as required?
2. Is the permitting authority identifying division of expenses between Title V and non-Title V programs?
3. Has the permitting authority integrated features into the accounting/financial management system which will:
 - a. Identify Title V fee revenues separate from other funding?
 - b. Identify Title V expenditures separate from other expenses?
 - c. Produce management reports, periodically and as requested, which the permitting authority will be able to use to certify as to the disposition of Title V funds?
4. Can the permitting authority confirm that Title V fees collected from sources are used to pay for the entire Title V program and that no Title V fees are used as match to the Clean Air Act section 105 Air Program Grant?²

Department Can Demonstrate Fee Collections Have Been Appropriately Segregated, but Provide Less Assurance That All Fees Owed Have Been Collected

Title V fee amounts are calculated annually based on facility emissions.

To receive fee payments each year, department fiscal staff use a mailing list provided the Air Quality Division to send notices to facilities that fee payments are due and provide a form for facilities to use in calculating their emissions. Facilities then calculate emissions and fees and submit emission calculations and payment to the department.³ Air Quality Division technical staff

² The section 105 Air Program Grant is a federal grant from the federal Environmental Protection Agency unrelated to the Title V program.

³ Facilities may pay their fees in two installments due in May and August of each year.

reviews emissions data and makes any needed corrections and payment adjustments. Fiscal staff tracks fee payments using an “Air Emissions Database Master List” for each calendar year.

To determine whether systems were in place to account for and track fee payments we reviewed Air Emissions Database Master List entries and the Statewide Accounting and Reporting System data and spoke with fiscal staff, we found:

- **Title V permit fee receipts have been appropriately segregated from other funds.**

The statewide accounting system shows, for each fiscal year since 1996, fee revenues were deposited into the dedicated Air Quality Permitting Fund and thereby segregated from other funds.

However, in reviewing Air Emissions Database Master Lists for each year, we also found:

- **The Department of Environmental Quality’s internal fees tracking data does not provide assurance that all required fees have been paid.**

Annual Air Emissions Database Master Lists showed facilities to which payment notifications were sent, the amount of the fee due, the amount paid and the amount to be paid in a second installment. While the master lists for the most recent years tended to be more complete and accurate, all of the master lists were incomplete to some degree. For example:

- The Air Emissions Database Master List for 2000 lists 70 facilities and 62 payments. Notations on the list show that of the eight facilities for which no payment is recorded, four were recorded as “delinquent” with no indication that fees had ever been paid, two others had no notations, and two others had comments indicating that the company had changed names and payment was shown under the new name.
- The database for 2001 lists 61 payments from the 67 facilities listed. Of the six remaining facilities, entries for four contained comments that the facility was not a Title V source and two were noted as “delinquent” with no indication that fees had ever been paid.

Due to these incomplete entries, we were unable to reconcile the total of facility payments with total fee revenues shown in the

Fee revenues have been segregated from non-Title V funds.

Department data concerning fee collections was incomplete, hampering efforts to verify that all fees have been paid.

**Fee payments
could not be
reconciled with
fee receipts.**

Statewide Accounting and Reporting System. For the two fiscal years noted:

- For fiscal year 2000, the statewide accounting system reflected fee revenues of \$1,340,602, while individual facility payments (adjusted to a fiscal year basis) totaled \$1,320,404 or \$20,198 less.
- Additionally, for fiscal year 2001 the payments listed (adjusted to a fiscal year basis) totaled \$1,155,024 or \$22,564 less than the amount recorded in the statewide accounting system.

In all cases, the Statewide Accounting and Reporting System revenues are higher than total of facility payments for the same period, indicating that at least some of the facilities for which entries were incomplete, subsequently paid fees. However, entries in the statewide system show receipts from several sources as a single amount without notation as to which facilities' payments are included. Consequently neither the statewide accounting system nor the Air Fees Database Master Lists are sufficient to demonstrate that payments in the correct amount were received from all facilities required to pay fees.

To improve accountability for permit fees:

We recommend the Department of Environmental Quality improve its fee tracking database.

Specifically, the department should take steps to ensure that:

- Title V sources are accurately identified;
- All fee payments are recorded; and
- Individual fee payments are reconciled to amounts recorded in the statewide accounting system.

Expenditures Before 2001 Were Appropriately Segregated from Other Expenditures, but Lacked Sufficient Detail to Identify Specific Activities Funded

To determine if fee revenues were appropriately used to fund Title V activities, we reviewed appropriation information, department financial information, and the Statewide Accounting

and Reporting System. We also spoke with department staff, legislative financial audit staff, and federal officials. We found:

- **Before 2001, the Department of Environmental Quality's accounting system appropriately segregated Title V expenditures from other expenditures, but lacked sufficient detail to identify specific activities for which fee revenues were used.**

Before fiscal year 2001, the Department of Environmental Quality was a division of the Idaho Department of Health and Welfare and used its accounting system. This system, called "FISCAL" was based on the Statewide Accounting and Reporting System but included some enhancements. During fiscal years 1996 and 1997, both revenues and expenditures were recorded in the Air Quality Permitting Fund thereby segregating Title V transactions from other funds. Beginning with fiscal year 1998, Title V expenditures were not made directly from the Air Quality Permitting Fund. Instead, Title V expenditures were made from department's operating fund but were segregated using a fund detail.⁴ To replace funds expended, the department transferred a portion of the funds appropriated from the permitting fund, generally on a monthly basis.

While this system was sufficient to account for Title V transactions and segregate Title V expenditures, it did not capture the specific activities being performed. Generally, employee timesheets and vendor payments were identified as Title V expenditures using Program Cost account codes. These codes effectively segregated Title V expenditures from those of other programs; however, they did not specify the specific Title V activity being funded. Thus the accounting system limited managers' and others' ability to assess whether expenditures were reasonable and appropriate.

We also found:

- **Transfers out of the Air Quality Permitting Fund did not match actual expenditures, resulting in lost interest income on Title V funds.**

Prior to FY2001, the department's accounting system provided little detail about the specific activities performed with Title V funds.

⁴ A fund detail provides an additional breakdown of funds within a fund when special treatment or reporting is required.

Some Title V funds did not earn interest because the department transferred more than it spent.

Fund transfers are legitimate accounting transactions if adequate controls are in place to ensure the amount transferred is correct.

As noted in Chapter 3, legislation creating the Air Quality Permitting Fund requires that permit fee revenues and any interest earned be used for Title V activities. However, Table 4.1 shows that between approximately \$325,000 and \$440,000 were retained in the operating fund detail, which does not earn interest on its balances, at the end of each past four fiscal years. While it is difficult to determine exactly how much interest was lost, a balance of \$400,000 would generate \$20,000 at five percent.⁵

To maximize interest earnings on Title V permit fees:

We recommend the Department of Environmental Quality reconcile future transfers to actual expenditures.

By transferring only actual expenditures to the operating fund, the Air Quality Permitting Fund will remain at higher levels and earn greater interest.

⁵ An accurate calculation of interest would require information regarding interest rates and daily balances.

Table 4.1: Balance of Permitting Fund Detail at Fiscal Year End, Fiscal Years 1998–2001

<u>Fiscal Year</u>	<u>Year End Fund Balance</u>
1998	\$328,043
1999	425,756
2000	437,760
2001	384,264

Source: Office of Performance Evaluations' analysis of the Statewide Accounting and Reporting System and Department of Environmental Quality data.

Since Fiscal Year 2001, an Improved Accounting System Provides More Detail About Specific Activities Being Funded by Permit Fees

We reviewed the department's current internal cost accounting system and analyzed data for fiscal year 2001 and the first nine months of fiscal year 2002. We found:

- **The Department of Environmental Quality has established accounting systems and practices to demonstrate that fee revenues spent during fiscal years 2001 and 2002 have been used for Title V program activities, but additional improvements are needed.**

Our review of financial records of the department's expenditures of Title V funds show that expenditures are now not only appropriately segregated but also sufficiently detailed to demonstrate funds are appropriately used. Data from the department's current accounting system classifies amounts spent within the program, by employee, activity, and facility. Table 4.2, which was developed with data from the department's accounting system, shows the activities on which Title V funds were spent during fiscal year 2001. In addition to classifying expenditures by activity as the table shows, the accounting system also allows the department to identify the Title V facility for which the activity occurred and can readily identify which facilities cost the most to regulate. Management reports available from the system also provide a greater level of detail about program expenditures. Managers can now receive detailed information about the hours being charged to the Title V program by employees, the facilities being worked on, and the specific activities being performed.

However, we found:

- **Indirect costs paid from Title V fees have not been consistently calculated.**

The Clean Air Act allows fee revenues to be used to cover reasonable indirect costs of the Title V program.⁶ An indirect

The department's new internal accounting system provides greater detail about how Title V funds have been used.

The Clean Air Act allows fee revenues to be used to cover reasonable indirect costs of the program.

⁶ CLEAN AIR ACT, 42 U.S.C. § 7661a.

Table 4.2: Department of Environmental Quality Title V Expenditures by Activity, Fiscal Year 2001^a

<u>Activity</u>	<u>Permit Fees</u>	<u>U.S. Dept. of Energy Payment</u>	<u>Total</u>
Administration/clerical/support	\$ 127,284	\$ 12,697	\$ 139,981
Complaint investigation	4,614	247	4,861
Database support	105,227	8,958	114,185
Enforcement	67,634	0	67,634
Engineering review	299,347	141,103	440,450
Financial/accounting	37,058	1,477	38,535
Inspections and inspection reports	81,068	5,171	86,239
Inventory development	3,198	100	3,298
Leave	225,614	50,423	276,037
Legislative requests	1,220	0	1,220
Monitoring	92,684	5,864	98,548
Personnel management	17,239	1,138	18,377
Program oversight	136,975	42,870	179,845
Program planning	138,210	10,279	148,489
Program rulemaking/policy	35,925	10,859	46,784
Project implementation	22,429	4,339	26,768
Public education	32,133	6,553	38,686
Public information request	8,523	683	9,206
Regulatory review	126,141	17,453	143,594
Report generation	15,730	10,750	26,480
Scientific review	47,356	4,723	52,079
Training	104,698	13,679	118,377
Other ^b	<u>1,747</u>	<u>36</u>	<u>1,783</u>
Total Direct Costs	\$ 1,732,054	\$ 349,403	\$ 2,081,457
Indirect Costs	<u>279,284</u>	<u>118,817</u>	<u>398,101</u>
Total Costs	\$ 2,011,338	\$ 468,220	\$ 2,479,558

^a May not sum due to rounding.

^b Includes compliance assistance, emergency response, Geographical Information System, and other de minimis activities costing less than \$1,000.

Source: Office of Performance Evaluations' analysis of Department of Environmental Quality data.

cost is a share of the cost of agency-wide services that benefit multiple programs apportioned among those programs on some reasonable basis. Examples of such services include legal services, human resources services, and information technology, among others.

The Department of Environmental Quality negotiates an indirect cost rate for all of its approximately 75 federal grant programs and applies it agency-wide. This cost rate has varied from 58 percent of total personnel costs in fiscal year 1996 to 38.9 percent in fiscal year 2001.

However, we noted that indirect costs charged to the Air Quality Permitting Fund in recent fiscal years were inconsistent with other programs. Title V indirect costs during fiscal years 1996 through 2001 varied from approximately 20 to 33 percent of total personnel costs. A department official told us that this lower rate was due to the declining balance of the Air Quality Permitting Fund described in Chapter 3. However, by not allocating indirect costs uniformly, other programs are in effect subsidizing the Air Quality Permitting program.

To make indirect costs charged to Title V fee revenues uniform with other programs:

We recommend the Department of Environmental Quality apply its indirect cost rate to Title V funds consistently with its other programs.

The department has charged a smaller portion of its indirect costs to Title V than to other programs.

Title V Funding of Certain Permits to Construct and Tier 2 Permits Appears Allowable

Specific questions were raised regarding the appropriateness of department's use of Title V funds to develop Permits to Construct and Tier 2 permits for Title V facilities. Since Permits to Construct and Tier 2 permits were required before the Title V permitting program was enacted, questions were raised as to whether issuance of these kinds of permits were in fact Title V activities. We reviewed federal Environmental Protection Agency guidance on allowable uses of Title V and compared it with available information on department expenditures.

We found:

- **Although federal agency guidance regarding use of Title V fee revenues is somewhat vague, it appears that the Department of Environmental Quality's use of Title V fee funds for issuing Permits to Construct and Tier 2 permits to Title V facilities is allowable.**

Guidance issued by the EPA in 1993 appears to allow use of Title V fees for other permitting efforts at Title V facilities.

However, in response to more recent conflicting guidance, the department established separate fees for other air quality permits.

As noted, federal statutes require that Title V permit fees cover all reasonable direct and indirect costs of the state's title V program. The federal Environmental Protection Agency has issued several guidance documents that touch on allowable uses of fee revenues.

However, while these documents are somewhat unclear, the use of Title V fees to issue Permits to Construct and Tier 2 permits at Title V facilities is not expressly prohibited. A 1993 guidance document states in part, "...EPA has concluded that title V fees must cover the costs of implementing and enforcing not only title V permits but any of the other permits required under the act, regardless of when issued." However, the same document also states, "the costs of reviewing and acting on applications for permits under Act provisions other than Title V need not be recouped by Title V fees."⁷ This later statement seems to allow discretion in determining whether to fund these "foundation" permits within the Title V program. The department requested clarification of several points in 2000 and received a draft response that seemed to indicate that permits to construct were not an authorized Title V activities. However, when we contacted officials at the Environmental Protection Agency's regional office, we were informed that the draft response was never approved or finalized and were referred to the 1993 and other guidance documents.

Consequently, it appears that use of Title V funds to issue Permits to Construct and Tier 2 permits to Title V facilities is allowable. Nevertheless, in July 2001, the department began to using other funding sources for Permits to Construct and has established a processing fee, effective July 1, 2002, for both Permits to Construct and Tier 2 permits.

⁷ John S. Seitz, Director, Office of Air Quality Planning and Standards, *U.S. Environmental Protection Agency*, memorandum to Air Division Directors, Regions I–X, *U.S. Environmental Protection Agency*, 4 August 1993, Subject: *Reissuance of Guidance on Agency Review of State Fee Schedules for Operating Permits Program Under Title V*, 5.

Permit to Construct Timeliness and Program Funding

Chapter 5

As previously noted, the Department of Environmental Quality issues Permits to Construct for the construction or modification of facilities that emit air pollutants. In the request for this evaluation, concerns were voiced regarding the department's timeliness in issuing these construction permits, and questions were raised about the department's efforts to resolve a backlog of cases that developed in recent years. In general, we found that both the number of backlogged applications and the average time spent in backlog have decreased; however, in many cases the department exceeded the processing deadlines established in Idaho Administrative Code. Additionally, deficiencies were identified with the department's permit tracking data. Further, while the department has established new fees to aid in the handling of its increased workload, it needs to closely monitor fee revenues to determine if any adjustments are needed.

We also examined concerns about the department's Permit to Construct program.

The Timeliness of Processing Permit to Construct Applications Has Improved, but Further Improvement Is Needed

To address concerns about the backlog of applications and the timeliness of permit issuance, we reviewed applicable statutes and rules, interviewed agency staff, and reviewed application information from the department's Stationary Source Database. We found:

- **The Department of Environmental Quality has taken steps to reduce the construction permit application backlog, although a small backlog continues to exist.**

In 2000, the department began placing some construction permit applications into backlog when applications could not be immediately assigned to permit writers for processing. By the end of calendar year 2000, the department had placed nine applications into backlog. The size of the backlog continued to grow in 2001. By the end of September of 2001, the department had placed a total of 41 Permit to Construct applications into backlog.

The department began placing some construction permit applications in backlog in 2000.

The department received a \$310,000 supplemental appropriation in FY2002 to help reduce the backlog.

By April 2002, the number of cases in backlog had declined from 41 to 8.

Department officials have cited several reasons for the development of a backlog in the Permit to Construct program including curtailment of Title V fee use for processing construction permit applications, a priority shift to processing Title V applications, and an increase in Permit to Construct applications.

During the 2001 legislative session, the department requested and received a \$310,000 supplemental appropriation to hire an outside contractor to reduce the backlog by July 2002. The appropriation also required the department to report permitting progress quarterly to the Joint Finance Appropriations Committee.

After receiving this funding, the department solicited bids from contractors in June 2001 and entered into a one-year contract in August 2001. As of April 2002, the contractor had been assigned responsibility for processing 42 applications. The contractor had completed processing 26 of these applications, preparing final construction permits in 10 cases and proposing other final actions in 16 cases.¹ The contractor is currently processing the other 16 applications.

Since the contractor began assisting the department with construction permit processing, the number of cases in backlog has declined significantly. As noted above, the department had 41 applications backlogged in September 2001. By April of 2002, the number of applications in backlog had dropped to eight. In addition, as shown in Table 5.1, while the number of applications placed in backlog increased in fiscal year 2002, the average length of time they have spent in backlog has declined significantly.

We also found:

- **Although the Department of Environmental Quality's timeliness in processing permits has improved slightly in fiscal year 2002, it frequently exceeded required deadlines for permit processing in fiscal years 1999 through 2002.**

Idaho Administrative Code establishes specific deadlines for completing key steps in processing Permit to Construct applications. The department's adherence to these deadlines is

¹ Other final actions include exemption determinations, consolidation into Tier II permits, and resubmission of the application.

Table 5.1: Permit to Construct Application Backlog, Fiscal Years 2001–2002

<u>Fiscal Year</u>	<u>Applications Received</u>	<u>Applications Backlogged</u>	<u>Percent Backlogged</u>	<u>Average Number of Days Backlogged</u>	<u>Remaining in Backlog</u>
2001	172	22	13%	225	1
2002 ^a	<u>112</u>	<u>72</u>	64	60	<u>7</u>
Total	284	94	33%	100	8

^a As of April 4, 2002.

Source: Office of Performance Evaluations' analysis of Department of Environmental Quality's stationary source database.

important and helps the regulated community schedule construction activities. Regulations require that the department review applications and determine if they are complete or incomplete within 30 calendar days. In addition, once applications are deemed complete, the rules specify that within 60 calendar days the department must (1) issue a draft permit for applicant review; (2) notify the applicant of approval, conditional approval, or denial; or (3) issue a proposed permit for public comment.² The rules also provide for a 30-day public comment period, if requested.

We reviewed the number of days it took the department to process applications for the permits issued or denied during fiscal years 1999 to 2002. For those for which the department had data, we found that 88 of 220 applications (40 percent) exceeded the 30-day deadline for determining whether applications were complete or incomplete, and 98 of 218 applications (45 percent) exceeded the 60-day deadline from application completeness to issuing a draft permit or notifying the applicant of approval or denial.

We also calculated the total number of days required to issue construction permits each year from fiscal year 1999 through fiscal year 2002. While factors outside the department's control can impact the total time taken to issue a permit, the overall time taken to issue permits can serve as a rough indicator of the

From FY1999–FY2002, the department frequently exceeded required timeframes for processing permits.

² IDAHO ADMIN. CODE, May 1, 1994, IDAPA 58.01.01.209.01, a–c.

In addition, the average length of time required to issue these permits increased from 1999 to 2001 but has dropped slightly in 2002.

department's processing timeliness. In fiscal year 1999, it took an average of 91 days to issue a Permit to Construct. The average number of days required to issue a permit increased in fiscal years 2000 and 2001, reaching a high of 139 days in fiscal year 2001. As of April 2002, the average time to issue a permit has declined to 130 days, a decrease of six percent over the previous year. Therefore:

We recommend the Department of Environmental Quality continue efforts to reduce the permit to construct application backlog and take measures to improve adherence to deadlines established in Idaho Administrative Code.

We also found:

- **The Department of Environmental Quality's tracking data for construction permit applications was somewhat incomplete, providing management with insufficient information to determine if deadlines set in Idaho Administrative Code were met.**

During the past four fiscal years, 71 of the 291 applications in which a permit to construct was issued or denied were missing data needed to determine whether the department met the 30-day or 60-day regulatory deadlines. Without complete information in the Stationary Source Database, air program managers cannot use it as a reliable tool to monitor the timeliness of construction permit processing. Therefore:

We recommend the Department of Environmental Quality take steps to ensure the Permit to Construct data is complete and accurate.

Compliance with regulatory timelines for permit processing could not be determined in about 25% of all cases due to incomplete tracking data.

Further Monitoring Is Needed to Determine If Program Funding Levels Are Appropriate

We also reviewed the department's ability to sustain a level of processing sufficient to keep the backlog from recurring. We found:

- **The Department of Environmental Quality has implemented new application and processing fees to allow it to keep pace with its construction permit workload, but will need to monitor the appropriateness of fee levels.**

The department determined it requires additional revenue beyond the Legislature's one-time supplemental appropriation to keep pace with the construction permit workload. To generate funding for the additional level of effort involved, the department proposed new application and processing fees. These fees were approved by the 2002 Legislature and take effect in fiscal year 2003. Revenues from these fees are to be used solely for the Permit to Construct Program and are intended to supplement existing state and federal funds. The fees include a \$1,000 application fee plus an emissions-based processing fee ranging from \$1,000 to \$10,000. It is difficult to determine how much revenue the new fees will generate, but based on previous application submissions, the department could receive approximately \$150,000 to over \$200,000 annually from the application fee alone. Department officials said that based on future workloads, they will use these fee revenues to hire consultants to process permit applications, but will not use the revenues to hire new staff. To help ensure that fees are set at an appropriate level:

We recommend the Department of Environmental Quality monitor fee collections and workload to determine if the fee schedule should be adjusted either up or down.

The department recently established fees to provide additional ongoing funding for processing construction permits.

Response to the Evaluation



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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Dirk Kempthorne, Governor
C. Stephen Allred, Director

June 4, 2002

Mr. James H. Henderson, Acting Director
Office of Performance Evaluations
Idaho State Legislature
Joe R. Williams Building
Lower Level, Suite 10
Boise, Idaho 83720

RE: Response to the Office of Performance Evaluation Air Quality Permitting Program Study

Dear Mr. Henderson:

The Department of Environmental Quality (Department) hereby submits the following Action Plan for the Air Quality Permitting Program addressing the recommendations set forth in the Office of Performance Evaluation study of the Department's Air Quality Permitting Program.

Recommendation 1. We recommend the Department of Environmental Quality take steps to improve tracking information for Title V permitting projects. Specifically the Department needs to: (1) develop an accurate list of initial Title V facilities in Idaho and their permit status; (2) ensure the accuracy and consistency of the information presented in various reports used by department staff; and (3) continue moving toward a single centralized database to provide consistent information for use by the entire department and regional staff.

DEQ Action—Facility List. The need for accurate classification of facility status (major, synthetic minor, minor) was identified by the Department as a critical component of implementation of an air quality permitting, compliance, and enforcement program for all facilities, not just Title V or former Title V facilities. The Department has initiated the following:

- (a) Require permit engineers to evaluate and update facility classification in all new permits. The process was implemented approximately 18 months ago.
- (b) Requested but did not receive EPA special project funding in 2001, and again in 2002, for classification review for each identified source in the state to update and correct facility classifications for all existing permits.
- (c) Included facility classification as part of two action items in the 2002 Draft Air Quality Enforcement Action Plan committing to the development of a five-year inspection list as part of our compliance evaluation program for all air pollution sources in the state. The frequency of inspection will be based on inspector review for accurate classification of each facility. The Department will review all sources and update all classifications in the AIRS database (source database shared with EPA).

DEQ Action—Data Consistency and Centralization. The Department currently uses a number of different tools to track air quality permitting activities. Each tool was designed for a different purpose. The permit tracking system was developed about five years ago for the express purpose of listing

permit projects, identifying regulatory timeline targets for permits to construct (PTCs) applications, documenting actual dates of final actions, and closing out those projects where the final action was not issuance of a permit. This data system provides the most accurate record of permit actions.

The Department is also maximizing effort to increase the use of its project tracking/project scheduling software called "Open Plan." The tool, when fully implemented, will provide "real-time project data" and enable more effective communication and management of individual projects in pertinent operating units: state programs, regional offices, and Technical Services.

The third tool used for permit tracking is the individual permit coordinator's spreadsheet designed to summarize working schedules and key budget information. This tool provides the most accurate day-to-day planning and management information providing realistic permit schedules based on real workload for the entire permit planning and implementation process. The permit coordinators, not the permit writers, are ultimately responsible for ensuring that all permits are issued in a timely manner and, when issued, are consistent with the regulatory strategy for the facility. The final permit schedule is, therefore, integrated with the requirement for final quality control.

The Department is evaluating the acquisition of an integrated data system for air quality permitting. Utility of the new system will allow for the transfer of existing data, and all new data, to benefit from new application development tools inclusive of project scheduling and budget to actual emission calculations. The new system will accommodate permit tracking and will also have the capacity to cross-check technical permit data with facility reported data.

Recommendation 2. We recommend the Department of Environmental Quality develop written guidance that establishes standard procedures for permitting staff to follow when creating permits.

DEQ Action--Guidance. Over the years, the Department has issued written internal guidance for specific types of air quality permits, including Title V permits. The existing guidance is not comprehensive but is part of an overall permit writing mentorship program. New air quality permit writers are trained through a combination of informal internal training and mentorship as well as formalized technical training opportunities. The Department maintains a comprehensive library of technical manuals and resources. Many classes are available providing detailed guidance for air quality permitting. Conceptual permit review meetings are now held with the permit writer, permit coordinator, and regional inspector early in permit development to provide timely guidance and resolve technical and regulatory issues.

The continuing evolution of permit requirements to accommodate regulatory changes, EPA guidance, and changes in technology is a fundamental part of a dynamic permitting program. There is a need for written guidance on state-specific issues and permit-specific language to supplement federal guidance. While some guidance documents and forms have been drafted for both internal and external use, a need still exists for more. The guidance development project will continue as resources are available. A modeling guideline is currently available for public comment on the web. Guidance for internal use, such as a peer review procedure for permit documents, has not been made available for public comment but has been widely reviewed and shared with the regional offices and permitting staff. The Department will review internal and external comments and finalize guidance for the existing topics and new topics as they are identified.

The Department does not plan to issue comprehensive guidance manuals for the preparation of air quality permits since these manuals are readily available through government, association, and private training course offerings and publications. Many of the manuals available through these sources provide excellent, up-to-date information and instruction. Because the state program mirrors the minimum requirements of federal permitting programs, fully utilizing the guidance provided in these manuals is efficient and effective.

Recommendation 3. We recommend the Department of Environmental Quality address the current imbalance between Title V program revenues and expenditures, and consider alternative factors in addition to emissions, as a basis for Title V fees.

DEQ Action—Title V Permit Work Plan. The Department is working on a Title V permit program work plan to identify work tasks and funding needs for implementation of the program beyond the initial issuance of Title V permits. Based on the cost estimates, the Department will pursue rulemaking to revise the current fee structure to collect sufficient funds to implement the Title V permit program. The Department will develop, consider, and evaluate a full range of fee options as part of that rulemaking.

Recommendation 4. We recommend the Department of Environmental Quality improve its fee tracking database. Specifically, the Department should take steps to ensure that: (1) Title V sources are accurately identified; (2) all fee payments are recorded; and (3) individual fee payments are reconciled to amounts recorded in the statewide accounting system.

DEQ Action—Accurate List of Title V Sources. The stationary source program maintains a list of Title V facilities within the project controls system. This list is updated by the program on a regular basis as facility Title V status changes through facility construction, modification, increasing or decreasing potential to emit, or compliance evaluations. The Department will implement a system to cross-check the fee database list with the project controls list regularly to ensure the fee tracking list is current.

DEQ Action—Fee Payments Recorded. The Department is confident that all fee payments have been recorded. The Department has implemented new systems that will allow for improved and accurate information. In conjunction with a more complete listing of Title V facilities, the system will allow for more user friendly reporting using real-time data that is accurate and reliable.

DEQ Action—Individual Fee Payments Reconciled. The Department maintains a daily log of receipts entered into the statewide accounting and reporting system (STARS) and thereby is able to reconcile receipts to deposits. Recent enhancements to the Department's accounting system allow for a more efficient means by which receipts are reconciled and reported.

Recommendation 5. We recommend the Department of Environmental Quality reconcile future transfers to actual expenditures.

DEQ Action—Fund Transfers. The Department is implementing a plan by which transfers will be more closely related to expenditures.

Recommendation 6. We recommend the Department of Environmental Quality apply its negotiated indirect rate to Title V funds consistently with its other programs.

DEQ Action—Indirect Rate. The Department will apply the federally negotiated indirect rate to Title V fees.

Recommendation 7. We recommend that the Department of Environmental Quality continue efforts to reduce the permit to construct application backlog and take measures to improve adherence to deadlines established in Idaho Administrative Code.

DEQ Action—Permit Timeliness. The amount of time required to conduct application completeness reviews and to draft air quality permits is dependent on the technical accuracy and completeness of the application submitted, the complexity of the proposed project, the scope of the permit, and available resources. The quality of the draft, facility involvement and cooperation, public interest in the project, and regulatory issues affect the time required from draft permit to final permit issuance. The accuracy, quality, and completeness of the final permit package (permit, technical memorandum, and response to comments) are critical to the defensibility of the permit in appeal, the ease of source compliance with regulatory requirements, and the long-term protection of air quality. The Department is committed to providing thorough construction reviews to facilitate compliance and reduce future delays in implementation of the operating permit programs caused by inadequate “foundation” permits.

The Department has implemented and plans to implement a number of changes to improve the permit to construct process (PTC). When received by the Department, PTC applications are immediately assigned a project number and entered into the permit tracking database and the queue list. Projects are prioritized on a first in, first assigned basis. Permits are assigned to a permit writer when the permit writer is actually available to begin the application technical review. Permit funds will be supplemented through a new fee, effective July 1. Permit preparation is contracted to an expanded resource pool through work order to the Technical Services Division, task order to an outside contractor, and in FY03 a work order to qualified regional office staff. The work or task order identifies the project scope, schedule, and budget. Status is tracked weekly. Standard permit templates are available and updated quarterly. Completeness reviews focus on technical adequacy. Conceptual permit reviews are held early in the permit development process to direct the permit writer and eliminate wasted effort on tangential issues. Final technical permit work is peer reviewed. Editing, final typing and formatting, and the final quality and consistency review have been consolidated in the program to eliminate unnecessary steps and duplication by the permit writer.

The regulatory timelines codified in the Air Quality Administrative Rules were established to provide certainty to the facility for construction planning. Because the timelines uniformly assign timeframes for all PTCs and Tier II operating permits without consideration of the complexity of the permit or the resources available, the goal of certainty is often elusive. The Department has initiated a rulemaking to simplify and streamline all permit processes. The focus of the proposed rule change is to allow a facility to submit one application for construction approval and development of, or modification to, a single operating permit following facility shutdown, startup and testing.

Recommendation 8. We recommend that the Department of Environmental Quality take steps to ensure the permit to construct data is complete and accurate.

DEQ Action—PTC Data. The Department has established a full-time position for stationary source program data and information tracking and coordination. The new air quality information position

focuses on planning, developing and implementing better data collection and management processes with defined quality objectives and quality assured data.


Recommendation 9. We recommend the Department of Environmental Quality monitor fee collections and workload to determine if the fee schedule should be adjusted either up or down.

DEQ Action—Fee Monitoring. For the new fee to take effect on July 1, 2002, the Department will establish a new program fee database for entry of administrative and technical emissions data for calculating application and processing fees for the permit to construct program and processing fees for the Tier II operating permit program. The database will be specifically structured to allow the data to be incorporated into a module of the integrated data management system in the future. Data entry will be done by the program in accordance with a data quality and management plan. Fee costs will be downloaded into a spreadsheet on a biweekly basis and sent to the Department's Fiscal Office for billing. That office will track individual facility fees owed, fees collected, and reconcile fee deposits.

Fee collections will be tallied and evaluated on a monthly basis and rolled into the quarterly air quality permit report. The Department will analyze the percentage of costs for permits paid from the fee collections, funding adequacy for timely preparation and issuance of permits, and determine annually whether the fee structures provide a sufficient supplemental funding source to maintain the air quality permitting program.

Thank you again for the opportunity to respond to your study.

Sincerely,



C. Stephen Allred, Director
Department of Environmental Quality

copy: Katherine Kelly, Air Quality Division

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